* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: May 30, 2007

W.P.(C) 1123/2007 & CM 1977/2007

BALLU SINGH & ORS. ..... Petitioners
Through Mr. V.K. Shali, Advocate

versus

LAND ACQUISITION COLLECTOR & ORS ..... Respondents
Through Mr. Sanjay Poddar with Mr. Sachin Nawani, Advocate for LAC.
Mr. Milanka Chaudhary, Advocate for DIAPL.
Mr. Sanjay Jain, Senior Advocate with
Mr. Sunil Ahuja, Advocate for AAI.
Mr. Rajiv Bansal, Advocate for DDA.

CORAM:
HON'BLE DR. JUSTICE S. MURALIDHAR

ORDER

For orders see the common judgment dated 30.5.2007 in CM (M) No.249/2007 etc. (***AAI v. Karan Singh etc.***)

May 30,2007 **S. Muralidhar J.**
raj

Signature Not Verified
Certify that the digital file and physical file have been compared and the digital data is as per the physical file and no page is missing.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of reserve: April 2, 2007
Date of decision: May 30, 2007

12

1. CM(M) 249/2007 & CM 2529/2007

\# AIRPORTS AUTHORITY OF INDIA ..... Petitioner
! Through Mr. Sanjay Jain, Senior Advocate with
Ms. Anjana Gosain with
Mr. Digvijay Rai and Mr. Bandan Kumar, Advocate

versus

$ KARAN SINGH & ORS. ..... Respondents
^ Mr. B.S. Mann, Advocate for R-1
Mr. Sanjay Poddar, Advocate for R-3
Mr. Anil Sapra, Advocate for DDA.
Mr. Ravi Verma, Mr. Milanka Chaudhary and
Ms. Surbhi Sharma, Advocates for DIAPL.

2. CM(M) 250/2007 & CM 2531/2007

AIRPORTS AUTHORITY OF INDIA ..... Petitioner
Through Ms. Anjana Gosain with
Mr. Digvijay Rai and Mr. Bandan Kumar, Advocates

versus

ISHWAR SINGH & ORS. ..... Respondents
Mr. B.S. Mann, Advocate for R-1
Mr. Sanjay Poddar, Advocate for R-3
Mr. Anil Sapra, Advocate for DDA.
Mr. Ravi Verma, Mr. Milanka Chaudhary and
Ms. Surbhi Sharma, Advocates for DIAPL.

3. CM(M) 255/2007 & CM 2554/2007

NODAL OFFICER/ADM (SW) ..... Petitioner
Through Mr.Sanjay Poddar, Advocate.

versus

ISHAWAR SINGH & ORS. ..... Respondents
Through Mr. B.S. Mann, Advocate for R-1.
Mr.Aruneshwar Gupta, Advocate for AAI.
Ms. Shobhna Takiar, Advocate for DDA.
Mr. Ravi Verma, Mr. Milanka Chaudhary and
Ms. Surbhi Sharma, Advocates for DIAPL.

4. CM(M) 251/2007 & CM 2533/2007

AIRPORTS AUTHORITY OF INDIA ..... Petitioner
Through Mr. Sanjay Jain, Senior Advocate with
Ms. Anjana Gosain with
Mr. Digvijay Rai and Mr. Bandan Kumar, Advocates

versus

BHOOP SINGH & ORS. ..... Respondents
Through Mr. B.S. Mann, Advocate for R-1.
Mr. Sanjay Poddar, Advocate for LAC.

Ms. Shobhna Takiar, Advocate for DDA.
Mr.Ramesh Ray, Advocate for Nodal Officer.
Mr. Ravi Verma, Mr. Milanka Chaudhary and
Ms. Surbhi Sharma, Advocates for DIAPL.

13

5. CM(M) 253/2007 & CM 2545/2007

NODAL OFFICER/ADM (SW) ..... Petitioner
Through Mr.Sanjay Poddar, Advocate.

versus

BHOOP SINGH & ORS. ..... Respondents
Mr.Aruneshwar Gupta, Advocate for AAI.
Ms. Shobhna Takiar, Advocate for DDA.
Mr. Ravi Verma, Mr. Milanka Chaudhary and
Ms. Surbhi Sharma, Advocates for DIAPL.

6. CM(M) 252/2007 & CM 2542/2007

AIRPORT AUTHORITY OF INDIA ..... Petitioner
Through Mr. Nilesh Sharma, Advocate.

versus

UMED SINGH & ORS. ..... Respondents
Through Mr. Sanjay Poddar, Advocate for LAC.
Ms. Shobhna Takiar, Advocate for DDA.
Mr. Ravi Verma, Mr. Milanka Chaudhary and
Ms. Surbhi Sharma, Advocates for DIAPL.

7. CM(M) 254/2007 & CM 2547/2007

NODAL OFFICER/ADM (SW) ..... Petitioner
Through Mr.Sanjay Poddar, Advocate.

versus

UMED SINGH & ORS. ..... Respondents
Mr.Aruneshwar Gupta, Advocate for AAI.
Ms Shobhna Takiar, Advocate for DDA.
Mr. Ravi Verma, Mr. Milanka Chaudhary and
Ms. Surbhi Sharma, Advocates for DIAPL.

8. W.P. (C) 24110/2005 & CM No. 16014/2005

KHUSHALI ..... PETITIONER
Through Mr. Kunwar Uday Bhan, Advocate.

versus

VICE CHAIRMAN D.D.A. & ORS. ..... Respondents
Through Mr. Anil Sapra, Advocate for DDA.
Mr. Aruneshwar Gupta with
Ms. Shikha Tandon for R-3.
Mr. Sanjay Sherawat with
Mr. Baljeet, Advocates for R-4 to R-7.
Mr.Sanjay Poddar, Advocate for LAC.
Mr.Aruneshwar Gupta, Advocate for AAI.
Mr.Ramesh Ray, Advocate for Nodal Officer.

Mr. Ravi Verma, Mr. Milanka Chaudhary and
Ms. Surbhi Sharma, Advocates for DIAPL.

14

9. W.P.(C) 152/2007 & CM 282/2007

BALJEET SINGH ..... Petitioner
Through Mr.Sanjay Sharawat, Advocate.

versus

D.D.A. ORS. ..... Respondents
Mr. Nilesh Sharma, Advocate for R-2.
Mr. Sanjay Poddar, Advocate for LAC.
Mr.Aruneshwar Gupta, Advocate for AAI.
Mr. Anil Sapra, Advocate for DDA.
Mr.Ramesh Ray, Advocate for Nodal Officer.
Mr. Ravi Verma, Mr. Milanka Chaudhary and
Ms. Surbhi Sharma, Advocates for DIAPL.

10. W.P.(C) 415/2007 & CM 736/2007

SURAJ MAL ..... Petitioner
Through Mr.Sanjay Sharawat, Advocate.

versus

D.D.A. & ORS. ..... Respondents
Through Mr. Sanjay Poddar, Advocate for LAC.
Mr.Aruneshwar Gupta, Advocate for AAI.
Mr. Anil Sapra, Advocate for DDA.
Mr.Ramesh Ray, Advocate for Nodal Officer.
Mr. Ravi Verma, Mr. Milanka Chaudhary and
Ms. Surbhi Sharma, Advocates for DIAPL.

11. W.P.(C) 782/2007 & CM 1478/2007

NIRMALA DEV ..... Petitioner
Through Mr. O.P. Arya with
Mr. Dinesh Choudhary, Advocates.

versus

K.K. DAHIYA(NUDAL OFFICER) & ANR ..... Respondents
Through Mr. Sanjay Poddar, Advocate for LAC.
Mr.Kaanan Kapur, Advocate for AAI.
Mr. Anil Sapra, Advocate for DDA.
Mr. Ravi Verma, Mr. Milanka Chaudhary and
Ms. Surbhi Sharma, Advocates for DIAPL.

12. W.P.(C) 21108-09/2005 & CM 13858/2005

GEETAWATI & ANR ..... Petitioners
Through Mr. Jayant Bhushan, Senior Advocate with
Mr. Kuanwar Udai Bhan, Advocate.

versus

INTERNATIONAL AIRPORT AUTHORITY
& ANR ..... Respondents
Through Mr. Sanjay Poddar, Advocate for LAC.
Mr.Kaanan Kapur, Advocate for AAI.
Mr. Anil Sapra, Advocate for DDA.

Mr. Ravi Verma, Mr. Milanka Chaudhary and
Ms. Surbhi Sharma, Advocates for DIAPL.

15

13. W.P.(C) 308/2007 & CM 518/2007

SURESH CHAND SHARMA & ORS. ..... Petitioners
Through Mr. V.K. Shali, Advocate

versus

LAND ACQUISITION COLLECTOR & O ..... Respondent
Through Mr. Sanjay Poddar with Mr. Sachin
Nawani, Advocate for LAC.
Mr. Milanka Chaudhary, Advocate for DIAPL.
Mr. Sanjay Jain, Senior Advocate with
Mr. A.P. Vinod, Advocate for AAI.
Mr. Rajiv Bansal, Advocate for DDA.

14. W.P.(C) 301/2007 & CM 502/2007

SARUP SINGH & ORS. ..... Petitioners
Through Mr. V.K. Shali, Advocate

versus

LAND ACQUISITION COLLECTOR & ORS. ..... Respondents
Through Mr. Sanjay Poddar with Mr. Sachin
Nawani, Advocate for LAC.
Mr. Milanka Chaudhary, Advocate for DIAPL.
Mr. Sanjay Jain, Senior Advocate with
Mr. Sunil Ahuja, Advocate for AAI.
Mr. Rajiv Bansal, Advocate for DDA.

15. W.P.(C) 302/2007 & CMS 504, 506/2007

RANBIR SINGH & ORS. ..... Petitioners
Through Mr. V.K. Shali, Advocate

versus

LAND ACQUISITION COLLECTOR & ORS ..... Respondents
Through Mr. Sanjay Poddar with Mr. Sachin
Nawani, Advocate for LAC.
Mr. Milanka Chaudhary, Advocate for DIAPL.
Mr. Sanjay Jain, Senior Advocate with
Mr. Sunil Ahuja, Advocate for AAI.
Mr. Rajiv Bansal, Advocate for DDA.

16. W.P.(C) 303/2007 & CM 507/2007

JEET SINGH & ORS. ..... Petitioners
Through Mr. V.K. Shali, Advocate

versus

LAND ACQUISITION COLLECTOR & ORS ..... Respondents
Through Mr. Sanjay Poddar with Mr. Sachin
Nawani, Advocate for LAC.
Mr. Milanka Chaudhary, Advocate for DIAPL.
Mr. Sanjay Jain, Senior Advocate with
Mr. Sunil Ahuja, Advocate for AAI.
Mr. Rajiv Bansal, Advocate for DDA.

17. W.P.(C) 1100/2007 & CM 1936/2007

DAYA CHAND & ORS. ..... Petitioners
Through Mr. V.K. Shali, Advocate

versus

LAND ACQUISITION COLLECTOR & ORS. ..... Respondents
Through Mr. Sanjay Poddar with Mr. Sachin Nawani, Advocate for LAC.
Mr. Milanka Chaudhary, Advocate for DIAPL.
Mr. Sanjay Jain, Senior Advocate with Mr. Digvijay Rai, Advocate for AAI.
Mr. Rajiv Bansal, Advocate for DDA.

18. W.P.(C) 1123/2007 & CM 1977/2007

BALLU SINGH & ORS. ..... Petitioners
Through Mr. V.K. Shali, Advocate

versus

LAND ACQUISITION COLLECTOR & ORS ..... Respondents
Through Mr. Sanjay Poddar with Mr. Sachin Nawani, Advocate for LAC.
Mr. Milanka Chaudhary, Advocate for DIAPL.
Mr. Sanjay Jain, Senior Advocate with Mr. Sunil Ahuja, Advocate for AAI.
Mr. Rajiv Bansal, Advocate for DDA.

19. W.P.(C) 1699/2007 & CM 3122/2007

DAYA NAND & ORS. ..... Petitioners
Through Mr. V.K. Shali, Advocate

versus

LAND ACQUISITION COLLECTOR & ORS ..... Respondents
Through Mr. Sanjay Poddar with Mr. Sachin Nawani, Advocate for LAC.
Mr. Milanka Chaudhary, Advocate for DIAPL.
Mr. Sanjay Jain, Senior Advocate with Mr. A.P. Vinod, Advocate for AAI.
Mr. Rajiv Bansal, Advocatet for DDA.

20. W.P.(C) 307/2007

JAIPAL SINGH ..... Petitioner
Through Mr. V.K. Shali, Advocate

versus

LAND ACQUISITION COLLECTOR & ORS. ..... Respondents
Through Mr. Sanjay Poddar with Mr. Sachin Nawani, Advocate for LAC.
Mr. Milanka Chaudhary, Advocate for DIAPL.
Mr. A.P. Vinod, Advocate for AAI.
Mr. Rajiv Bansal, Advocate for DDA.

21. W.P.(C) 304/2007

ZILE SINGH & ORS. ..... Petitioners
Through Mr. V.K. Shali, Advocate

versus

LAND ACQUISITION COLLECTOR & ORS ..... Respondents
Through Mr. Sanjay Poddar with Mr. Sachin Nawani, Advocate for LAC.
Mr. Milanka Chaudhary, Advocate for DIAPL.
Mr. Sanjay Jain, Senior Advocate with Mr. Nilesh Sharma and Ms. Nitika Mangla, Advocate for AAI.
Mr. Rajiv Bansal, Advocate for DDA.

22. W.P.(C) 306/2007

MAHENDER SINGH & ORS. ..... Petitioners
Through Mr. V.K. Shali, Advocate

versus

LAND ACQUISITION COLLECTOR & ORS ..... Respondents
Through Mr. Sanjay Poddar with Mr. Sachin Nawani, Advocate for LAC.
Mr. Milanka Chaudhary, Advocate for DIAPL.
Mr. Sanjay Jain, Senior Advocate with Mr. A.P. Vinod, Advocate for AAI.
Mr. Rajiv Bansal, Advocate for DDA.

23. W.P.(C) 300/2007

SAT PAL SINGH & ORS. ..... Petitioners
Through Mr. V.K. Shali, Advocate

versus

LAND ACQUISITION COLLECTOR & ORS ..... Respondents
Through Mr. Sanjay Poddar with Mr. Sachin Nawani, Advocate for LAC.
Mr. Milanka Chaudhary, Advocate for DIAPL.
Mr. Sanjay Jain, Senior Advocate with Mr. A.P. Vinod, Advocate for AAI.
Mr. Rajiv Bansal, Advocate for DDA.

24. W.P.(C) 4001/2007 & CMS 7561-62/2007

PRATAP SINGH & ORS. ..... Petitioners
Through Mr. V.K. Shali, Advocate

versus

LAND ACQUISITION COLLECTOR & ORS ..... Respondents
Through Mr. Sanjay Poddar with Mr. Sachin Nawani, Advocate for LAC.
Mr. Rajiv Bansal, Advocate for DDA.
Ms. Anjana Gosain, Advocate for AAI.

25. W.P.(C) 4113/2007 & CM No 7755/2007

KULDEEP SINGH & ORS. ..... Petitioners

Through Mr. Kunwar Udai Bhan, Advocate

18

versus

K.K.DAHIYA & ORS. ..... Respondents
Through Mr. Rajiv Bansal, Advocate for DDA.
Mr. Manas Mohapatra, Advocate for R-1.

CORAM:
HON'BLE DR. JUSTICE S. MURALIDHAR

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in Digest?

Dr. S. MURALIDHAR, J.

Introduction

1. These petitions concern the claims for allotment of alternative land made by the residents of Nangal Devat village in the vicinity of the international airport at Delhi. Their lands were acquired over two decades ago under the Land Acquisition Act, 1894 ('LA Act') for the purpose of expansion of the airport. During the course of the proceedings in this Court challenging the acquisition, the respondents, which included the Airports Authority of India (AAI) came up with a rehabilitation scheme, offering the landholders alternative plots in village Rangpuri, near Vasant Kunj in Delhi. The land holders then gave up their challenge to the acquisition and the focus shifted to devising a mechanism for dealing with their disputed claims for allotment of alternative plots at Rangpuri. Through a series of orders, to which a reference will be made hereafter, this Court appointed a Nodal Officer and entrusted him with the task of determining eligibility of the claimants and the tenability of their claims. Guidelines for disposing of the claims were approved and made part of the order of this Court. Persons aggrieved by the orders passed by the Nodal Officer in their individual claim petitions were permitted to challenge those orders by separate proceedings. The Nodal Officer having disposed of the claims,

the aggrieved claimants have filed these petitions before this Court. Some others, including those who did not file their claims before the Nodal Officer, approached the civil court. The civil court passed interim orders directing a re-survey of the lands in question. Aggrieved by the interim order, the AAI and the Nodal Officer have filed revision petitions in this Court which are also being disposed of by this common judgment.

Background facts

2. The background to the filing of these petitions was that on 28.4.1972, a notification was issued under Section 4 of the LA Act proposing to acquire 289 bighas and 9 biswas of the land in village Nangal Devat for the public purpose for expansion of the Palam Airport at Delhi. This was followed by a declaration on 28.8.1979 under Section 6 of the LA Act. On 14.8.1986, the land acquisition Collector (LAC) issued an award No. 16/86-87 determining the area under the acquisition as 263 bighas and 5 biswas. The award determined the claims for compensation for land, structures and trees separately. It indicated the precise amounts of compensation of the structures claimant-wise.

3. The Nangal Devat village consists of the old abadi (Lal Dora) area as well as the extended abadi area. While a revenue record exists in relation to the extended abadi area, no revenue record was available for the old abadi (Lal Dora) area. A survey was accordingly conducted in 1972-73 in respect of the lands in the old abadi area. This survey also covered the structures in the extended abadi area. On the basis of the survey report for the old abadi and the revenue record for the extended abadi, two Naksha Muntazamins were prepared, one for the

apportionment of the compensation for land and the other for the apportionment of compensation for the structures.

Proceedings in this Court

4. The award was challenged in this Court by many of the landholders in W.P. (C) No. 481 of 1982 (***Daryao Singh vs. Union of India***). On 2.8.2001, an order was passed by this Court recording the submission of AAI that all persons whose names appeared in the award would be allotted alternative land in terms of a rehabilitation scheme that would be framed within six months. Consequently, the petitioners gave up their challenge to the land acquisition proceedings and on that basis, the writ petition was disposed of.

5. Subsequently, one of the petitioners filed a Review Application No. 9312 of 2001 stating that the concession made by the counsel for the petitioners in W.P.(C) No. 481 of 1982 was without his consent and, therefore, the matter should be re-opened. His review application was kept pending. In the meanwhile, on account of the slow progress made in announcing the rehabilitation scheme and the allotment of alternative land thereunder, the original writ petitioners returned to this Court, by filing contempt petitions and applications in the disposed of writ petition.

6. During the hearing of the contempt petitions on 17.12.2002, the Court was informed that at a meeting held on 9.8.2002 with the Lt.Governor, it had been decided to modify the layout plan so as to increase the area of the alternate plots to be allotted at village Rangpuri. Notice was then issued to the Union of India and the Delhi Development Authority (DDA) to inform the court of the progress in

finalizing the layout plan and making the allotment of alternate plots. However three months later, on 12.3.2003, this Court noted that the allotment of alternate plots was yet to take place. The AAI sought six more months for the purpose. Finding little progress in the matter, the Court directed the DDA to inform it of the steps taken pursuant the decision taken on 9.8.2002. The matters were listed for 2.4.2003.

7. On 30.9.2003 this Court was informed by the AAI that categorization of the alternate plots had been done and those whose lands had been acquired in village Nangal Devat would be entitled to the following sizes of alternate plots n village Rangpuri:

Sl. No.	Landholding in Nangal Dewat (sq.m.)	Size of plot to be allotted in Rangpuri (sq.m)
1.	32 sq. m. and below	26
2.	Above 32 sq. m and upto 48 sq. m	40
3.	Above 48 sq. m and upto 80 sq. m	64
4.	Above 80 sq. m and upto 100 sq. m	90
5.	Above 100 sq. m and upto 140 sq. m	100
6.	Above 140 sq. m and upto 180 sq. m	160
7.	Above 180 sq. m and upto 250 sq. m	200
8.	Above 250 sq. m and upto 350 sq. m	250
9.	Above 350 sq. m and upto 550 sq. m	350
10.	Above 550 sq. m and upto 800 sq. m	450
11.	Above 800 sq. m and upto 1500 sq. m	550
12.	Above 1500 sq. m	650

8. On 29.10.2003 the Land Acquisition Collector (LAC), Mr.S.S. Kanawat, informed the Court that at the time of the issuance of the notification under Section 4 LAA, "a list of all those persons who were in possession of the land with the area in their possession as on the date of acquisition was prepared." The Court directed that list to be filed in Court within four weeks.

9. Thereafter, on 14.1.2004 Mr.Kanawat filed in this Court the list of

persons in village Nangal Devat who were entitled to the alternative plots of land in village Rangpuri. In this list the names of the land owners, the names of the persons whose structures were found on the land, the share of such person, khasra number and the total extent which was being acquired were all indicated. The Court directed the list to be circulated to all the counsel who were permitted to make submissions thereon at the subsequent date of hearing.

10. On 28.4.2004, this Court appointed Mr. Kanawat, the LAC as the Nodal Officer to "find out eligibility of different persons in different categories." The AAI was asked to give relevant data to the Nodal Officer, and he was directed to prepare a list of the eligible persons after considering the objections of the different parties. Further, it was directed that "If there is an issue of eligibility of a particular category of persons, the list should be prepared and the eligibility of that category will be considered by the Court." Liberty was granted to the parties to file necessary documents within 15 days. As regards the names of persons missing from the list of eligible persons prepared as of that date, the Court directed that "the Officer will also consider the requests of the persons who claim that their names have been mistakenly missed out from the list." The Court permitted the Nodal Officer to take a decision in respect of issues arising for drawing up the list. The parties seeking to intervene or get impleaded were also asked to approach the Nodal Officer with all their claims.

11. Four months later on 26.8.2004, the Court was informed that the Nodal Officer was performing exercise entrusted to him by the previous order dated 28.4.2004 and the status report showed that there was delay on the part of the applicants in approaching the Nodal Officer

and accordingly the exercise was get delayed. The Court then observed that "delay in moving the applications is condoned, but it is made clear that since sufficient time has been passed, there is no question of any further time to any person....."

23

12. Further proceedings took place on 16.12.2004. The Court recorded that "The Nodal Officer is present and states that the exercise is complete whereby a consolidated list of entitled persons numbering 316 has been made. Copies of the list have been given to learned counsel for the private parties." A grievance was made to the Court that persons forming part of the Harijan and Backward Jan Kalyan Samiti have not been included in the list. The explanation offered by the Nodal Officer was that the allotment was made by the Gaon Sabha in respect of some individuals included in the list while in other cases the land was allotted to the community as a whole and not to individual persons. The Court then took the view that "In terms of the total land allotted, such community would also be entitled to allotment of plots as a group. How they divide the same between themselves is their business."

13. Consequent upon the order dated 16.12.2004 when this Court permitted the individuals who had objections to the list of eligible persons to file objections in this Court, around 82 applications were filed by such objectors. On 14.1.2005, this Court directed in those applications that persons found eligible by the Nodal Officer would participate in the draw of lots to be conducted by the DDA. The Court further clarified that the allotment of plots pursuant thereto would be subject to further orders.

The Order dated 18.5.2005

14. During the hearing of 82 applications, this Court was able to get the parties to identify the outstanding issues and also suggests certain guidelines and criteria to address these issues. These applications ultimately came to be disposed of by an order dated 18.5.2005 of Hon'ble Mr. Justice Manmohan Sarin. The Court in the said order recorded that there were three main concerns of the applicants. The first was when "name of the objectors/claimants does not appear in the record as on 28.4.1972." For such cases this court observed that the limited jurisdiction of the Nodal Officer did not permit him to decide the right and entitlement of such person which may have to be determined in either probate proceedings or the title suits found upon the law of succession. Therefore, it was directed that "For all such cases or similar cases, DDA and AAI would keep in abeyance the claim for the allotment of plot pending determination of entitlement/title by the Competent Court."

15. The second category of cases was "those where the name of the original holder appears in the records as on 28.4.1972 but has expired subsequent to 28.4.1972 and application(s) by the LRs for mutation is/are pending." As regards this category, the Court directed that "such cases would be considered for joint allotment to LRs based on their eligibility and entitlement of the original holders as regards the extent of land and the category."

16. The third category of objections was on behalf of the applicants in respect of whom "the land was owned by the father while independent structures were raised by his sons and legal representatives" and "the entitlement of alternate plot was being determined on the basis of the

extent of land held by the original land holder." In this regard, it was submitted that there were legal heirs who despite owning a separate and distinctive structure, and their names figuring for the purposes of compensation, were "deprived of the benefit of individual entitlement of alternative plots based on the proportionate land falling underneath their respective structures." In respect of this category, it was directed that such legal heirs/applicants would be eligible for allotment of individual alternate plots upon the following conditions:

> "(i) Name of the legal heirs appear separately in the survey report and Naksha Munta Zamin in respect of distinct holdings;
> (ii) Legal heirs who have raised separate structures in separate holdings for which they are given separate compensation in the award."

17. In its order dated 18.5.2005, the Court also approved the following guidelines agreed upon by the counsel for the parties:

> "1.Any person, whose name finds mention either in the Survey Report (which relates to the old Abadi), or the Jamabandi as on 28.4.1972 and the Naksha Muntazamin, would be eligible for allotment of an alternative plot.
>
> 2. Persons whose names appear at more than one place either in old/extended abadi in the individual capacity of as legal heir of any other person and either in the Jamabandi or the survey report, his total holding of land shall be considered for determining size of the plot.
>
> 3. If a person has died intestate after 28.4.1972, the legal heirs will be jointly entitled for allotment of a plot only. However, where one or more of the legal heirs have their own separate holding or a plot then the proportionate share in the persons' plot shall be added

to his/their own holding for determining categorization and size of plot to be allotted.

4. Upon the death of recorded owner after 28.4.1972, leaving a Will and the Revenue Authorities based on the Will have carried out the mutation in the Jamabandi in favour of the L.Rs., then all the L.Rs. shall be entitled to allotment of a plot jointly. In case, there is a dispute with regard to the Will, allotment shall be kept in abeyance pending determination of title by the court of competent jurisdiction.

Explanatory Note:

1. The above guidelines are to facilitate the decision of cases by the Nodal Officer. The Nodal Officer irrespective of the guidelines would have the inherent power to correct any errors, omissions or additions in the survey report, Jamabandi or naksha muntazamin in accordance with law.
2. The pendency of a claim before the Nodal Officer would not enable any party to assert its right to continue with the occupation/possession of the acquired land."

18. The Court in its order dated 18.5.2005 noted that Mr. Kanawat had been transferred and appointed Mr. A.K. Singh, ADM as Nodal Officer in his place. By a separate order made on the same day, i.e. 18.5.2005, this Court dismissed the review application filed seeking review of the order dated 2.8.2001.

The present petitions

19. To recapitulate, the Nodal Officer has thereafter passed orders on the claims filed by the land holders and owners of structures and some of those orders have been challenged in these writ petitions under Article 226 of the Constitution of India. Certain others have filed suits for declaration and permanent injunction in the civil court. In

interlocutory applications in those suits, the civil court has passed an order directing a re-survey of the lands in question. These orders have been challenged by AAI as well as by the Nodal officer by way of civil revision petitions. This judgment will dispose of the writ petitions and the civil revision petitions.

Submissions of Counsel

20. The arguments on behalf of the claimants/ writ petitioners were advanced by Mr.Jayant Bhushan, Senior Advocate, Mr.V.K.Shali, Mr. B.S.Mann, Mr. Kunwar Uday Bhan and Mr.Sanjay Sherawat, Advocates. Mr.Sanjay Jain, Senior Advocate and Mr.Aruneshwar Gupta, Advocate appeared for the AAI, Dr.Abhishek Singhvi, Senior Advocate for the Delhi International Airport Ltd. (DIAL) (the joint venture company with the AAI formed for the purpose of executing the project of airport expansion), and Mr. Sanjay Poddar, Advocate for the Nodal Officer.

21. The submissions of the counsel for the claimants was that the Nodal Officer exceeded his powers in 'clubbing' the entitlements of individual family members even where their separate names figured in the survey and the Naksha Muntazamin. It was pointed out that the Nodal Officer, by adopting this device, reduced the entitlement to a single plot for one family. It was further argued that the Explanatory Note to the Guidelines permitted the Nodal officer to correct errors in the Survey and Revenue Record as well as the Naksha Muntazamin and therefore even if a name was wrongly omitted in any of these documents the Nodal officer should have corrected the document by including the name. Then it was pointed out that in some cases the Nodal Officer had not passed separate orders and had instead disposed of the claims by a common order, without discussing the facts of

individual claims. It was submitted that in such cases, the matters should be remanded to the Nodal officer for a fresh time bound determination.

22. In reply, Mr.Sanjay Jain, learned senior counsel appearing for the AAI first submitted that the suits before the civil court by persons who had missed the bus in filing claims before the Nodal officer were not maintainable. It was submitted that in ordering a re-survey, the civil court had ignored the several orders passed by this court from time to time and if the interim order was allowed to stand, it would result in avoidable confusion which in turn would delay the completion of the project. Mr. Aruneshwar Gupta supplemented these submissions with reference to the previous orders of this Court and stated that there was no question of expanding the list of 308 persons already found eligible for alternate plots. It was urged that the scope of interference by this Court under Article 226 was limited and a reference was made to an order dated 4.1.2007 passed by Hon'ble Mr.Justice Anil Kumar in W.P. (C) No. 18324 of 2006 (***Surat Singh v. DDA***) rejecting a challenge to an order dated 16.11.2006 of the Nodal Officer. Appearing for the DIAL, Dr.Singhvi first contended that the present writ petitions were themselves not maintainable and the remedy lay elsewhere. However, realising later that by asking the matters to be relegated to the civil court, the resolution of the dispute would be delayed even further, this argument was given up and instead it was urged that there must be an expeditious disposal of these petitions. It was urged that irrespective of the outcome of these petitions DIAL must be put in possession of the lands acquired for the purpose of airport expansion.

23. On behalf of the Nodal Officer, Mr.Sanjay Poddar submitted on

the strength of the Full Bench decision of this Court in ***Ramanand v. Union of Inda*** AIR 1994 Del 29 that there was no right to alternative land where land had been acquired for a public purpose. Therefore, even if the order of the Nodal officer reduced or negatived the claim for alternative land, o illegality was committed. It was submitted that the Nodal Officer had gone strictly by the orders of this Court and the guidelines and where he was satisfied that the entry in the documents required correction, he had done so. However, in the case of members of the same family whose names separately figured in the records, a criteria was thought necessary to be devised in those cases where no actual partition in law had taken place and in fact the families were living under one roof. It was further argued that the criteria of one plot for one family devised was reasonable and could not be termed arbitrary. Reliance was placed on the judgment of the Hon'ble Supreme Court in ***Satluj Jal Vidyut Nigam Ltd. v. Dila Ram*** (2005) 2 SCC 122. It was further argued that if in such cases this Court held that each member of the family would be entitled to a separate plot, it would result in reopening several claims of similarly placed persons and the rehabilitation exercise would get unduly delayed. It was pointed out that in those cases where a common order had been made, the Nodal Officer had nevertheless examined the facts of individual cases meticulously before rejecting the claim.

Issues of maintainability

24. The preliminary objection to the maintainability of these petitions need not detain their consideration on merits for the simple reason that this Court has in the order dated 18.5.2005 permitted the claimants whose claims were rejected by the Nodal Officer to "seek substantive relief in the appropriate proceedings and not by way of CMs in this

disposed of writ petition." In effect, this Court did not say that the claimants could not file writ petitions here. On the other hand, if the claimants were relegated to the civil court, it might interminably delay the resolution of the dispute and prolong their wait for rehabilitation where it is due to them. Any delay in the settling of the claims would not be in the interests of the respondents either.

25. This is also the reason why a remand to the Nodal Officer where the order under challenge warrants interference has not been thought to be expedient. Already matters have been remanded to the Nodal Officer twice. Therefore, this Court proposes to decide the merits of these petitions by examining the records itself.

26. This court also finds it necessary to clarify that no further petitions challenging the orders of the Nodal Officer or by persons who never filed their claims before the Nodal officer should hereafter be entertained either by this Court or by the civil court. This is because all these claimants belong to the same village Nangal Devat and the litigation has been on since 1982. It is inconceivable that any resident of the village would have been unaware of the pendency of these proceedings and the claims filed by the residents of that village. A reference has already been made to the time limits set by this Court for the Nodal Officer to entertain claims and how this Court has stated in no unclear terms that no further claims beyond the time set in the order dated 26.8.2004 would be entertained. Even thereafter in some individual cases, this Court had permitted some claims to be filed before the Nodal Officer. However, all claims must come to an end at some stage and the time limit cannot be open ended to enable the 'fence sitters' to take a chance after watching the outcome of these

petitions. The Court does not wish to encourage this. This should allay the apprehension that if the Court interferes with some of the orders of the Nodal Officer under challenge here, others similarly situated who have not approached the court may want similar relief. It is made clear that the relief being granted in some of the petitions by this order is confined to the petitions covered by this order and would not result in reopening the claims of those who have not challenged the order of the Nodal Officer till date.

31

27. The Court expects that the civil courts would also adopt the same approach. For this very reason, the Court is of the view that in the cases where the civil court has passed interim orders directing a re-survey, the suits ought not to have been entertained in the first place. That however will be dealt with at the time of passing separate orders in those revision petitions.

The central issues

28. The central issue in the writ petitions concerns the legality of the orders passed by the Nodal Officer. Incidental to this is the question of the scope of the powers of the Nodal Officer in terms of the Guidelines already approved by this Court by its order dated 18.5.2005. The question that arises is whether the Nodal officer has exceeded, failed to apply or acted contrary to those Guidelines.

29. The questions arising in the civil revision petitions are whether the civil court had the jurisdiction to entertain the suits and secondly, even if it did, whether it was justified in ordering a re-survey of the lands in question.

Scope of the present proceedings

30. Before discussing the central issues, this Court will like to deal with the argument advanced by the respondents on the scope of interference by this Court under Article 226 of the Constitution. While it is generally true that the scope of this Court's powers would be limited to correcting jurisdictional errors and errors of procedure, the present cases have a history of litigation that has seen several orders of the Court in the past that have defined the scope of the proceedings. The Nodal Officer was a creation of this Court and he was made to perform tasks under the direct supervision of this Court. The order dated 18.5.2005 expressly permits the claimants to challenge the Nodal officer's order in appropriate proceedings. Therefore, the scope of the present proceedings are circumscribed by the earlier orders which have been noticed before.

31. For those very reasons, this Court is unable to accept the submission of Mr.Poddar that in view of the dictum of this Court in ***Ramanand*** the claimants cannot question the Nodal Officer's order rejecting their claim. Likewise, the decision of the Hon'ble Supreme Court in ***Satluj Jal Vidyut Nigam*** is peculiar to the rehabilitation package under scrutiny in that case, which expressly provided that one family would be entitled only to one plot. The scheme here, however, does not talk of any such restriction.

32. Therefore, in reviewing the decisions of the Nodal Officer in the instant case, this Court is required to find out if the Nodal Officer followed the guidelines approved by this Court earlier in deciding a particular claim. This Court is accordingly required to examine the very materials that the Nodal Officer had before him in determining

individual claims. Having determined the scope of this Court's powers, it is important first to examine the scope of the powers of the Nodal Officer in terms of the order dated 18.5.2005 of this Court. 33

Scope of Nodal Officer's powers

33. The scope of the proceedings before the Nodal Officer is unambiguously defined by the Guidelines and the Explanatory Note appended thereto and approved by this Court. Those guidelines are part of the order of the Court and hold the field till modified by this court. The guidelines have to be read in the context of the order passed by this Court on 18.5.2005 in which the three possible types of situations were envisaged and the manner of dealing with each type was discussed. The solution arrived at was by the consensus of parties which included the respondents AAI and the Government of the NCT of Delhi represented by the Nodal Officer. None of the parties to the Order dated 18.5.2005 have challenged it. The said order, and the guidelines appended thereto, has therefore become final.

34. The Explanatory note gives scope to the Nodal Officer, irrespective of the guidelines, to "correct any errors, omissions or additions in the survey report, Jamabandi or Naksha Muntazamin in accordance with law." This defines the extent to which the Nodal Officer can deviate from the guidelines. To this Court the said clause makes it clear that the power of the Nodal Officer to correct an entry in these documents is circumscribed by what is permissible in the law. The clause does not permit the Nodal officer to devise a new criteria for determining eligibility of persons and consequently for making allotments of alternate lands. For instance, as has happened in some

cases, where persons belonging to the same family have separate entries in the survey indicating their individual shares, the Nodal Officer was required to strictly apply the guidelines and work out the entitlements of the individual members of the same family in terms of Clause I,2 and/or 3 of the guidelines as the case may be. It was not open to the Nodal officer to say that despite the individual claimant's name figuring in say the survey report and Naksha Muntazamin, and therefore fulfilling the criterion in Clause 1 of the Guidelines, he would not be entitled to an allotment of a separate piece of land because he happened to belong to the family of a person who has already been considered for a separate allotment.

35. The Nodal Officer has sought to justify this 'clubbing' of entitlements of individual members of one family for a joint allotment by adverting to the fact that one family may 'corner ' a number of plots. For instance, in an order dated 16.11.2006 in the claim of Smt. Nirmala Devi, the Nodal Officer rejected her claim on the following reasoning:

> "In normal circumstances; in a simple and plain exercise, plots could have been allotted in the names of all persons whose names appeared in the survey but in the case of village Nangal Dewat it was found that instead of names of head of family appearing in the list, the names of sons, brothers etc were also shown in the survey. This could have resulted in allotment of several plots in one family. **It was imperative to consider some criteria for equitable allotment of plots.** In case plots are simply allotted in the names of persons as existed in the survey, some of the families would have cornered a number of plots merely on the basis of the fact that the names of different family members appeared in the survey. In detail exercise the Nodal Officer clubbed the landholding of a family and the names of the persons in a family appearing at different places in the Lal Dora land were

not considered fro allotment of individual plots. In the cases where the names of father, sons and brothers etc. were shown separately in the survey, the nodal officer clubbed their landholdings and recommended to allot one plot in the name of head of the family/in joint names as per the entitlement." (emphasis supplied)

35

36. The error in the above reasoning is in the highlighted portion where the Nodal Officer took upon himself the task of devising a criterion for allotment to members of the same family. This, it was impermissible for the Nodal Officer to do considering that this Court's guidelines already provided an answer to that situation, particularly in Clauses 1 and 2. It must be remembered that the guidelines were approved I the presence of all parties and all such situations would certainly have been envisaged when those guidelines were formulated and approved. There is another difficulty in the approach of the Nodal Officer in this regard. By devising such a criterion of "clubbing' of entitlements of individual members of a family whose separate names with their respective shares figure in the survey and Naksha Muntazamin, the Nodal Officer has denied the entitlement to a separate plot. This was certainly not envisaged by the Court when it delegated the task of disposing of the claims in the first instance to the Nodal Officer.

37. The Court is also not impressed by the argument advanced on behalf of the Nodal Officer that this approach was adopted in cases where no partition had taken place in the family or where the families were in fact living together. The Nodal Officer also appears to have been concerned that members of the same family would 'corner' many of the plots meant for rehabilitation. These factors ought not have been the concern of the Nodal Officer. The stage for voicing such concern

was before this Court prior to the passing of the order dated 18.5.2005. With that order having become final, it was not open to the Nodal Officer to devise new criteria on the basis of certain apprehensions.

36

38. In every claim, the Nodal Officer was expected to decide whether the claimant was eligible allotment of alternative land on the basis of the criteria already devised and approved by this Court in its order dated 18.5.2005. It was more or less to be a check list of questions:

(a) Does the claimant's name figure in the Survey Report/ Naksha Muntazamin?

(b) Does the claimant's name figure in the Revenue Record as on 28.4.1972 and the Naksha Muntazamin?

(c) Does the claimant's name appear in more than one place i.e., both in the Survey Report as well as the Revenue Record in such claimant's individual capacity or as legal heir or any other person?

(d) Has the person, in whose name the land stands, died after 28.4.1972? Has he left behind a will indicating the names of the persons to whom the land should devolve? Have the Revenue Authorities carried out mutation in the revenue record on that basis?

39. If the answers to (a) or (b) above are in the affirmative then the claimant is entitled to alternative land. It is not the concern of the Nodal Officer that such person belongs to the same family and, therefore, is not entitled to an individual alternative plot. If the answer to the question at (c) above is in the affirmative then the total holding of such land should be considered for determining the size of the alternative plot to be allotted to such person. This category of persons

are those who are legal heirs with their respective shares in their individual names already shown in the Revenue Record or the Survey Report.

37

40. As regards those persons who are legal heirs of the original land owner who has died after 28.4.1972, there are two situations that are envisaged. Where the person dies without leaving a will, the heirs will be entitled for allotment of one plot only. However, where such heirs have their own separate holding, then for the purposes of determining the category of the size of alternative plot, their proportionate share as legal heir will be added to the separate holding.

41. As regards the category of legal heirs of the person who dies after 28.4.1972 leaving behind a Will, mutation should have been carried out in the Revenue Record and then all legal heirs, will be entitled for one plot only. This of course presumes that such legal heirs do not have their own separate holding. If there is a dispute as regards the Will, then the allotment will be kept in abeyance pending determination of title by the Court of competent jurisdiction.

42. If the Nodal Officer had followed the above criteria strictly, there was no scope for any error whatsoever. The only leeway given to the Nodal in the Explanatory Note appended to the Guidelines was that he could correct any errors, omissions or make additions to the three documents viz., the Survey Report, the Revenue Record or the Naksha Muntazamin "in accordance with law." It is stated that the Index prepared by the Nodal Officer, on the basis of which the list of persons eligible for allotment of alternative land in Rangpuri was submitted to the Court, was based either on the Survey Report, the Revenue Record

and the Naksha Muntazamin. The Index is, therefore, only the secondary document and for errors in the Index one would have to go back to the three source documents mentioned. This then was the entire scope of the powers of the Nodal Officer.

38

43. As regards, the decision of the Nodal Officer in individual cases, the discussion hereafter deals with them separately.

Civil Courts' jurisdiction

44.1 As regards the issue whether the civil courts ought to have entertained the suits, this Court has already held that given the history of litigation of these cases involving village Nangal Dewat, the civil courts ought not to have entertained suits filed by persons who never filed a claim before the Nodal Officer. Even in those cases where the Nodal Officer had passed an order, the appropriate forum to challenge such Order would, given the background, be this Court and not the civil court.

44.2 As regards the direction to order a re-survey, while the detailed facts will be noticed in the discussion in the separate revision petitions, the fact that this Court froze the position obtaining on the date of preparation of the survey and the Naksha Muntazmain meant that there was no scope for a re-survey at this stage. It is possible that the civil court's attention was not drawn to the various orders passed by this court but it is expected that the civil court would exercise caution in granting an ex parte order of re-survey in such matters.

44.3 This Court wishes to point out that the jurisdiction of the civil court, already stands curtailed in matters where land stands acquired,

as in the instant case, under the LA Act. Given the previous orders of this Court, the issue of rehabilitation also would remain outside the purview of the jurisdiction of the civil court. This conclusion is also informed by the objective of this Court's orders in devising an alternative dispute resolution mechanism in the form of the Nodal Officer to ensure efficient and efficacious disposal of the claims. The intention was not to duplicate the exercise by permitting interference by the civil court.

Summary of conclusions

45. Before dealing with the individual cases, the summary of the conclusions arrived at in the discussion thus far may be recounted:

(i) The order dated 18.5.2005 of this Court permits the claimants to approach this Court if the claims are rejected by the Nodal Officer. This Court finds this to be the more expedient course to follow than relegating the claimants to the civil court which might delay the resolution of the dispute.

(ii) Given the history of this case, the Court also does not propose to remand the matters to the Nodal Officer where the order passed calls for interference. It proposes to examine the very materials before the Nodal Officer to determine if the decision was justified.

(iii) However, all claims must come to an end at some stage and the time limit cannot be open ended to enable the 'fence sitters' to take a chance after watching the outcome of these petitions. The Court does not wish to encourage this. It is made clear that the relief being granted in some of the petitions by this order is confined to the

petitions covered by this order and would not result in reopening the claims of those who have not challenged the order of the Nodal Officer till date.

(iv) It was impermissible for the Nodal Officer to take upon himself the task of devising a criterion for allotment to members of the same family. This Court's guidelines already provided an answer to that situation, particularly in Clauses 1 and 2.

(v) In every claim, the Nodal Officer was expected to decide whether the claimant was eligible allotment of alternative land on the basis of the criteria already devised and approved by this Court in its order dated 18.5.2005. The only leeway given to the Nodal in the Explanatory Note appended to the Guidelines was that he could correct any errors, omissions or make additions to the three documents viz., the Survey Report, the Revenue Record or the Naksha Muntazamin "in accordance with law."

(vi) Given the litigational history of these cases involving village Nangal Dewat, the civil courts ought not to have entertained suits filed by persons who never filed a claim before the Nodal Officer. Even in those cases where the Nodal Officer had passed an order, the appropriate forum to challenge such Order would, given the background, be this Court and not the civil court.

(vii) The issue of rehabilitation also would remain outside the purview of the jurisdiction of the civil court. This conclusion is also informed by the objective of this Court's orders in devising an alternative dispute resolution mechanism in the form of the Nodal Officer to ensure

efficient and efficacious disposal of the claims.

46. Having summarized the conclusions as above, the individual cases are now taken up for consideration. The Court will first take up the civil revision petitions for consideration.

CM(M) No. 249/2007 and CM 2529/2007 (*Airports Authority of India v. Karan Singh*)

47.1 The Airports Authority of India (AAI) is aggrieved by an order dated 9.2.2007 passed by the Civil Judge, Delhi in Suit No. 1631/2006 by which the trial court appointed the Nodal Officer as a Local Commissioner and directed him to get the land in Khasra Nos. 1197 demarcated and measured to find out its total extent and determine the extent of the land of the plaintiff (respondent herein) which falls in Khasra No. 1198.

47.2 This Court by an order date 22.2.2007 directed that the impugned order would remain stayed till further orders.

47.3 The brief facts are that the respondent in this revision petition, Shri Karan Singh filed an application before the Nodal Officer on 30.5.2005 claiming that his father Late Shri Chhattar Singh was the recorded owner of land measuring 49 sq. yards in Khasra No. 1198, land measuring 154 sq. yards in Khasra No. 1197/4A in respect of which entries had been duly recorded in the Survey Report at page No. 46. It was also shown in the list prepared by the Nodal Officer on 16.12.2004. It is stated that in respect of 3 biswas of land in Khasra No. 1229/1 in the extended abadi, a Lal Dora certificate had been issued in favour of Karan Singh and that he has been running a

kerosene depot thereon. As regards 84 sq. yards in Khasra No. 1197/8, the averment in the application filed before the Nodal Officer reads as under:

> "That Late Sh. Chatter was also the owner of land ad-measuring 84 sq. yards comprising in khasra no. 1197/8 original lal dora which has been duly recorded in the survey conducted in the year 1971-72 at page no. 52 where the only mistake has occurred that the same has been wrongly recorded in the name of his son namely Sh. Karan Singh. The applicant Karan Singh humbly submits that Sh. Chatter was the real owner of the land and he has been wrongly recorded as the owner in the survey. Relevant extract of the survey is attached herewith as Annexure A-3"

47.4 On the basis of the above averment, it was claimed that the name of Late Shri Chhattar Singh should have been included as a separate individual unit as the owner of land admeasuring 49 plus 154 plus 151 plus 84 sq. yards, i.e., 438 sq. yards for which he would be entitled to an alternative plot measuring 350 sq.m. Since Shri Karan Singh was the legal heir, it was claimed that he would not be entitled to this extent of alternative plot.

47.5 The Nodal Officer in his order dated 22.11.2006 held that the applicant was not eligible for consideration of land in Khasra No. 1197 since it was recorded in the name of Shri Surjan, Shri Chand and Shri Shiv Lal, all sons of Shri Dani. Shri Karan Singh was only show as being in possession of that land in the Survey Report. The Nodal Officer also noted that the earlier Nodal Officer by his order dated 10.12.2004 had observed as under:

> "Land measuring 84 sq. yards in Khasra No. 1197 has

been recorded in the name of Chattar s/o Dalpat as Toshi Abadi. However, Karan Singh s/o Chattar s/o Dalpat moved an application in which he admitted that the said land belongs to Late Sunder s/o Late Mare."

43

47.6 Accordingly, the Nodal Officer disposed of the application by observing as under:

"As far as the claim of applicant in respect of 84 sq. yard is concerned, the applicant should first approach the revenue authority to seek mutation of this land in his favour and thereafter only he may approach the office. In the light of the fact and circumstances of the case the claim of applicant regarding 84 sq yard cannot be accepted. At the same time the said land cannot be added to the share of Sunder s/o Mare also, therefore deleted from his land holding."

47.7 Shri Karan Singh, the respondent herein, did not challenge the above order of the Nodal Officer by filing a writ petition. Instead he filed a Suit No. 1631 of 2006 seeking a declaration that he and other legal heirs of Late Chhattar Singh were the lawful owners of land measuring 438 sq. yards in village Nangal Devat in the manner referred to hereinabove. Although the plaint refers to the order dated 22.11.2006 passed by the Nodal Officer, no relief in respect thereof was claimed by the respondent. An application was moved along with the suit asking for a fresh survey to be carried out in order to verify the ownership and possession of the respondent of the land being claimed. It appears from the record that the AAI filed a written statement on 15.1.2007 denying the claim of the respondent. The Nodal Officer also

filed a detailed written statement referring to the earlier order of this Court specifically averred that "If the plaintiff is aggrieved by any order of the Nodal Officer, he can approach to the Hon'ble High Court for redressal. The present suit of the plaintiff is liable to be dismissed for want of jurisdiction."

47.8 The impugned order dated 9.2.2007 of the Civil Judge sets out the averments in the plaint and the application. However, the impugned order does notice any of the averments in the written statement filed by the AAI and the Nodal Officer. Significantly, the impugned order which proceeds to appoint a Local Commissioner to carry out a fresh survey, does not at all deal with the preliminary objection as to the jurisdiction of the Court to entertain the suit.

47.9 Mr. Sanjay Jain, learned Senior counsel for the petitioner submits that apart from lacking jurisdiction to entertain the suit, the Civil Court completely overlooked the order dated 22.11.2006 passed by the Nodal Officer which was a detailed one based on the records of the case. He submits that if the impugned order is allowed to stand, it would result in avoidable confusion and put the entire exercise, so carefully monitored by this Court, into disarray. He further points out that the case set up by the respondent in the Civil Court was different from that set up before the Nodal Officer and this itself was sufficient to deny relief to the respondent.

47.10 Mr. B.S. Mann, learned counsel appearing for the respondent on the other hand, submitted that the Nodal Officer fell in error in not considering the factual position on ground. While Mr. Mann concedes that in the application filed before the Nodal Officer, no claim for re-

measurement of the land in Khasra Nos. 1197 and 1198 is made, a physical verification of the land in his possession would show that the claim in respect of Khasra No.1197/8 was justified.

47.11 This Court is unable to appreciate how the trial court could have passed the impugned order without first dealing with the preliminary objection as to the maintainability of the suit. A reading of the impugned order shows that the trial court has merely set out the averments in the plaint and in the application filed by the respondent for a fresh survey without noticing the fact that the Nodal Officer had already passed an order on 22.11.2006 on the respondent's claim. The trial court also failed to notice that no relief was sought against the said order of the Nodal Officer and what was being urged in the suit was beyond the scope of the claim before the Nodal Officer. These were sufficient grounds to decline to entertain the suit itself.

47.12 The petitioner AAI is right in its submission that the impugned order directing a fresh demarcation of Khasra No. 1197 at this stage would throw the entire scheme of rehabilitation into disarray. Nevertheless, in order to satisfy itself of the factual position, this Court has itself examined the Survey Report, the Revenue Record and the Naksha Muntazamin. The Survey Report shows that what the Nodal Officer has held as far as Khsra No. 1197 is concerned, is in fact, correct. The name of the owner in respect of 84 sq. yards, is Chhattar S/o Dalpat. The owner of structure in Khasra No. 1197/8 is shown as Karan Singh. The owner of the land is shown as Shri Surjan, Sri Chand and Shri Shiv Dayal sons of Dhani. Therefore, the question of Karan Singh being entitled to any share in that land is ruled out. On the basis of guidelines which have been approved by this Court, the question of

owner of structure being also entitled to alternate plot can arise only where the owner of the land and the owner of the structures is related to the person in whose name the land beneath such structure stands. Here, admittedly the sons of Shri Dani are not in any way related to Shri Karan Singh at all. Moreover, structures have been separately assessed in the Award for compensation. Therefore, the claim of Shri Karan Singh that 84 sq. yards in Khasr No. 1198 should actually be in the name of his father, is totally unsustainable.

47.13 It is clear from the reading of the plaint that this case set up in the suit before the Civil court was not claim set up by the respondent Karan Singh before the Nodal Officer. Given the long history of present litigation, the attempt by the respondent to extend the scope of the dispute at this stage by filing a suit is nothing but an abuse of the process of law. The trial court has proceeded merely on the averments in the plaint which on the face of it is contrary to what is contained in the Survey Report, prepared way back in 1972-73. In this context it requires to be noticed that Shri Chhattar Singh has signed the Survey Report by way of acceptance of the sketch map therein and the measurements indicated in relation to the lands in question. Thus, there is no scope for correction of any error in that record on the basis of what has been contended by the respondent.

47.14 This Court is of the considered view that civil court ought not have to entertained the suit much less have passed the impugned interim order dated 9.2.2007. The impugned order dated 9.2.2007 is unsustainable in law and is hereby set aside. Although this Court is of the view that the suit itself is without jurisdiction for the reasons mentioned earlier in this judgment, given the scope of the present

revision petition, that consequential order should be made by the trial court itself. However, it is expected that the trial court will in future desist from entertaining such suits relating to the lands in village Nangal Devat which have been the subject matter of acquisition for the purposes of airport expansion.

47.15 Accordingly, the revision petition is allowed and the application is disposed of.

CM(M) 250/2007 and CM No. 2531/2007 *(AAI v. Ishwar Singh)*

CM(M)255/2007 and CM No. 2554/2007 *(Nodal Officer v. Ishwar Singh)*

48.1 These revision petitions are directed against the impugned order dated 9.2.2007 passed by the civil court in Suit No. 1622 of 2006, appointing the Nodal Officer as a Local Commissioner and directing demarcation and fresh measurement of the lands in Khasra No.1197 of village Nangal Devat.

48.2 In these matters, the respondent filed the suit in question claiming to be the joint owners of various parcels of land in Khasra Nos. 1197/6 and 1198. However, the respondent did not file any claim whatsoever before the Nodal Officer although, it arises in respect of the lands in village Nangal Devat. Despite time having been extended by this Court for filing such claims, the respondent did avail of the opportunity. This itself should have been the reason for the civil court not to have entertained the suit of the respondent.

48.3 Nevertheless, in order that no injustice is done to the respondent, this Court has examined in detail the Survey Report, the Revenue

Record and the Naksha Muntazamin in relation to the lands in question. As far as the respondent Shri Ishwar Singh is concerned, his name figures in the Survey Report in relation to Khasra No. 1197/6 as the owner of a structure whereas the Revenue Record indicates that the land is owned by Shri Suraj who is not related to him. For the reasons already explained in the earlier cases, there is no basis whatsoever to doubt the correctness of the Survey Report. Therefore, the claim of Ishwar Singh must fail.

48.4 The reasons that have weighed with this Court in setting aside the similar impugned order dated 9.2.2007 in the earlier case passed by the civil court apply to the present case as well. Accordingly, the impugned order dated 9.2.2007 passed by the civil court in Suit No. 1622 of 2006 (Ishwar Singh v. DDA) is set aside. This Court is of the considered view that civil court ought not have to entertained the suit much less have passed the impugned interim order dated 9.2.2007. Although this Court is of the view that the suit itself is without jurisdiction for the reasons mentioned earlier in this judgment, given the scope of the present revision petition, that consequential order should be made by the trial court itself.

48.5 Accordingly, the revision petitions are allowed and the applications are disposed of.

CM(M) 251/2007 and CM No. 2533/2007 *(AAI v. Bhoop Singh)*

CM(M)253/2007 and CM No. 2545/2007 *(Nodal Officer v. Bhoop Singh)*

49.1 These revision petitions are also directed against a similar order dated 9.2.2007 passed by the Civil Judge, Delhi in Suit No. 1621 of

2006 (***Bhoop Singh v. DDA***). The prayer in the suit by the respondents Bhoop Singh, his three brothers Shri Phool Kumar, Shri Ramesh, Shri Naresh and Smt. Munia, the wife of the late Shri Suresh, brother of Shri Bhoop Singh, was for a declaration that they were the lawful owners of land admeasuring 278.50 sq. yards in Khasra No. 1198 in the old abadi and Khasra No. 1229/1 in the extended abadi in village Nangal Devat.

49.2 It is an admitted position that the respondents did not approach the Nodal Officer with any claims despite the time granted by this Court, as narrated hereinabove. With the respondents not having availed of the opportunities granted by this Court, they could not have gone to the civil court for the first time with the claim and sought for the interim relief of a fresh Survey to determine the eligibility of their claims. The impugned order of the civil court granting the application for a fresh Survey is, for the reasons already explained earlier in this judgment, not sustainable in law. Despite the petitioners here having filed their written statements pointing out the above facts to the civil court, the impugned order does not explain why those objections to the grant of interim relief in the suit are not justified.

49.3 The impugned order dated 9.2.2007 is set aside. This Court is of the considered view that civil court ought not have to entertained the suit much less have passed the impugned interim order dated 9.2.2007. Although this Court is of the view that the suit itself is without jurisdiction for the reasons mentioned earlier in this judgment, given the scope of the present revision petition, that consequential order should be made by the trial court itself.

49.4 The revision petitions are allowed and the applications are disposed of.

50

CM (M) 252/2007 and CM No. 2543/2007 *(AAI v. Umed Singh)*

CM (M) 254/2007 and CM No. 2547/2007 *(Nodal Officer v. Umed Singh)*

50.1 These revision petitions are also directed against a similar order dated 9.2.2007 passed by the Civil Judge, Delhi in Suit No. 1644 of 2006 (***Umed Singh v. DDA***). The prayer in the suit by the respondent Umed Singh was for a declaration that the respondent, being legal heir of late Shri Risal Singh was the lawful owner of land admeasuring 597 sq. yards in Khasra No. 1198 in the old abadi in village Nangal Devat.

50.2 The claim of the respondent Umed Singh before the Nodal Officer was that land measuring 154 sq. yds and 84 sq. yds in Khasra No. 1197/4 should be added to his share. However, the Nodal Officer by his order dated 9.11.2006 rejected his claim on the ground that the land stood in the names of Shri Surjan, Shri Chand and Shri Shiv Lal, all sons of late Shri Dani. Since Khasra No. 1197 was part of the extended abadi, the Revenue Record was the relevant document. The name of the respondent was not part of the Revenue Record. Further, the land in respect of which the claim was made was already part of the community land in respect of which the order dated 16.12.2004 passed by this Court in RA 9312 of 2002 in WP(C) 481 of 1982 has directed the entire community would be entitled to plots as a group.

50.3 Despite the Nodal Officer filing a detailed written statement in the said civil suit, the Civil Judge has not explained for not dealing with the submissions made therein. In the circumstances, the impugned

order of the civil court granting the application for a fresh Survey is, for the reasons already explained earlier in this judgment, not sustainable in law.

50.4 The impugned order dated 9.2.2007 is set aside. This Court is of the considered view that civil court ought not have to entertained the suit much less have passed the impugned interim order dated 9.2.2007. Although this Court is of the view that the suit itself is without jurisdiction for the reasons mentioned earlier in this judgment, given the scope of the present revision petition, that consequential order should be made by the trial court itself.

50.5 The revision petitions are allowed and the applications are disposed of.

W.P.(C) No. 24110/2005 and CM No. 16014/2005 (*Khushali v. DDA*)

51.1 The petitioner is aggrieved by the decision dated 30.9.2005 passed by the Nodal Officer rejecting the claim of the petitioner.

51.2 The brief facts as far as this case is concerned are that the petitioner filed an application on 1.6.2005 before the Nodal Officer claiming to be the owner and in possession of the following lands:

(i) Plot measuring 345 sq. yds in Khasra No. 1198.

(ii) Plot measuring 37.5 sq yds out of total measuring 75 sq yds in Khasra No. 1198.

(iii) Plot measuring 252 sq. yds out of total measuring 1008 sq yds in Khasra No. 1192/3 and 1193 in extended abadi area.

(iv) Plot measuring 32.5 sq. yds, out of total measuring 650 sq. yds in Khasra No. 1243 in old abadi area.

(v) Plot measuring 12 sq. yds out of total measuring 238 sq. yds in Khasra no. 1243 in old abadi area.

51.3 The petitioner claimed that in the list filed in this Court by the Nodal Officer on 14.1.2004, the area of the petitioner's plot was shown as 315 sq yards. The Nodal Officer examined the Revenue Record, the Survey Report as well as the orders passed by the previous Nodal Officer and came to the conclusion that the petitioner's area in khasra No. 1198 measured 83 sq. metre in the Survey Report of the old abadi. He observed that although the extent was shown as 345 sq. yards, the area had been corrected by the Nodal Officer while submitting a corrected list to this Court on 16.12.2004. As regards the claim of 37.5.sq yards out of total 79 sq. yards in khasra No. 1198, the Nodal Officer held that this also was recorded in the name of Shri Shiv Chand who was the grandfather of respondent no. 7 Rishi Raj. It was further noticed that the earlier Nodal Officer had already passed an order No. 97/2004 in the application filed by the respondent no. 7, Rishi Raj. The Nodal Officer upheld the claim of the petitioner for 252 sq. yards out of the total of 1008 sq. yards in the extended abadi in Khasra nos. 1192/3 and 1193.

51.4 As regards the fourth claim of 32.5 sq. yards of khasra No. 1243, it was noted that in the list of owners submitted by the previous Nodal Officer to this Court on 14.1.2004, the total area was shown as 1163 yards in khasra No. 1243 and the petitioner's name did not figure in the list. As regards the fifth claim of 12 sq. yards from the old haveli land, the court recorded to an earlier order no. 82/2002 decided objections

raised by Shri Suraj Bhan by the site plan prepared while deciding objections. Accordingly the Nodal Officer rejected the claims of the petitioner barring the claim of 83 sq. yards out of Khasra No. 1198, and 252 sq. yards in Khasra no. 1192/3 and 1193 in the extended abadi area.

53

51.5 The submission of Mr. Jayant Bhushan, learned counsel for the petitioner is that Explanation 1 to the guidelines which have been appended to the order dated 18.5.2005 empowered the Nodal Officer to consider the objections raised to the Survey Report prepared in 1972-73. He refers to the documents annexed to the petition and submits that the Nodal Officer ought to have accepted the plea of the petitioner that the survey prepared was erroneous as far as the petitioner was concerned and was, therefore, liable to be rectified by the Nodal Officers. To a question as to why the petitioner did not approach the Court earlier, Mr. Jayant Bhushan submits that since the Survey Report was never published and no objections were called for, there was no occasion to challenge it. It was asserted that the area in possession of the claimant was in fact 123 sq. yards and not 83 sq. yards as shown in the Nodal Officer's report. It is however asserted that the petitioner's share was in fact 679 sq. yards whereas it has been shown only 335 sq. yards. He suggested that solution for this is to direct the Nodal Officer to re-survey the land in question and give a report to this Court.

51.6 In reply, Mr. Sanjay Poddar, learned counsel for the respondent Nodal Officer, refers to the Survey Report and submits that the relevant entry pertaining to the claim of the petitioner has been signed signifying the acceptance of the land holder or person in possession way back in 1972-73. He submits that there is no error in the Survey

Report that calls for correction.

51.7 This Court has examined the survey report in some detail. There is no doubt that one portion of the land of the petitioner falls in Khasra No. 1193. Contiguous to it, one portion measuring 83 sq. yards falls in Khasra No. 1198 in the extended abadi area. The Survey Report prepared in 1972-73 indicates the dimensions of the plot in Khasra No. 1198. As per the calculation arrived at on the basis of the measurements of the land indicated in the sketch map, the extent of land in Khasra No. 1198 works out to 83.027 sq. yards only. This Court has no means of doubting the measurements taken and the Court is satisfied that the total extent has been correctly calculated. In that view of the matter, there is no need to send the matter back to the Nodal Officer for this purpose.

51.8 As regards the claims in relation to the other khasra numbers, where the Nodal Officer has rejected the claim of the petitioner, this Court upon perusal of the orders in the connected cases, disposing of the claims of the contesting respondents no. 4 to 7, is of the view that those orders are correct and do not call for any interference.

51.9 In that view of the matter, there is no merit in this writ petition and it is dismissed as such. The application is disposed of.

W.P.(C) 152/2007 and 282/2007 *(Baljeet Singh v. DDA)*

52.1. The petitioner challenges an order dated 10.11.2006 passed by the Nodal Officer.

52.2. The brief facts are that the petitioner claims to be the owner of

the land admeasuring 72.5 sq. yards in khasra No. 1243 in the old abadi area of village Nangal Dewat and 82.5 sq. yards out of a total 1663 sq. yards in khasra No. 1247/2/2 in the extended abadi area in village Nangal Dewat. The petitioner's case is that as regards the extended abadi, the share of the petitioner's father who had died on 21.2.1984, the land to the extent of 82.5 sq. yards in the extended abadi was mutated in the name of the petitioner. An award was made pursuant to notification under Sec. 4 of the LA Act covering the petitioner's land on 14.8.1986. The petitioner claims that in regard to the old abadi area he received compensation in respect of 72.5 sq. yards as per the award. The list of eligible allottees was furnished to this Court by the respondent on 14.1.2004. While the plot of 82.5 sq. yards in the extended abadi area was shown in the petitioner's father's name at serial no. 413, the petitioner's share of plot of 72..5 sq.yards in the old abadi area in respect of which he had received compensation, shown at serial no. 237 of award, was not shown in the list.

52.3. This Court by an order dated 28.4.2004 appointed Mr. S.S. Kanawat as the Nodal Officer to examine the claims. It was said in the order dated 28.4.2004 that if any party is aggrieved by the decision of the Nodal Officer as regards the issue of list in question in the category to which they were eligible "the matter can be put up before the Court and ..... will be heard at that stage." The petitioner filed an application which was considered by the Nodal Officer. By an order dated 18.8.2004, the Nodal Officer accepted the site plan prepared by Ms. Manjula Verma, Architect and directed that the area as show in the site plan would be taken into account while calculating the entitlement of the persons. In the survey report at serial no. 4 in respect of property no. 4A, both the petitioner here and one Sh. Ram Swaroop and late Sh.

Maan Singh were shown as the owners in respect of 144.44 sq. yards. 50% share of the petitioners i.e. 72.22 sq. yards is shown in the name of the petitioner's property No. 4A. The petitioner contends that his claim for a plot of 72 sq. yards in the abadi area has been wrongly rejected by the Nodal Officer. His case is that in terms of the order dated 18.5.2005 passed by this Court, petitioner's individual share has been ignored.

52.4. The grievance of the petitioner is that pursuant to an earlier order of this Court, the Nodal Officer should have individually consider the petitioners' claims and not clubbed it with other claims, and passed a common order without discussing peculiar facts of the petitioner's case. As already explained earlier in this judgment, although there may be some justification in this grievance, the Court did not find necessary to remand the matter to the Nodal Officer since this Court has itself examined the entire record.

52.5. The case of the petitioner is that guidelines appended to the order dated 18,5,2005 passed by this Court lays down the criteria for eligiblity in case the land owner dies intestate as under:

> "If a person has died intestate after 28.04.1972, the legal heirs will be jointly entitled for allotment of a plot only. However where one or more of the legal heirs have their own separate holding of a plot then the proportionate share in the persons plot shall be added to his/their own holding for determining categorization and size of plot to be allotted."

Accordingly it is submitted that the petitioner's share in his father's

property should be clubbed with his individual holding. It is claimed that the petitioner is entitled to 144.7 sq. meters in respect of which he was entitled to a 160 yards plot. The grievance is that he has been allotted only in respect of a holding of 82.5 sq. yards.

52.6. It is pointed out on behalf of the respondent that the petitioner's name only figures in the award under the heading 'structure'. It is contended that the petitioner cannot lay claim on the land. It is stated that he only put up structures and therefore there no warrant for any correction. One has to proceed only in accordance with the guidelines appended to the order dated 18.5.2005 for this purpose. It is contended by the respondent that since the petitioners name does not figure in the documents recognised in the order dated 18.5.2005 passed by this Court, there is no question of considering him for allotment of an alternative plot.

52.7. The criteria for allotment of alternative plot, has been set out unambiguously in the guidelines appended to that order. On of the documents recognized for the purpose is the Naksha Muntazamin. Guidelines make it clear that name has to figure in either the survey report or the jamabandi and the Naksha Muntazamin. Even in the Naksha Muntazamin which was prepared after the award, it is only the petitioner's father's name that figures in respect of the land in khasra No. 1247/2/2 is being entitled to 1/4th share of 1663 sq. yds. The petitioner's case for being the owner of 82.5 sq. yards in the old abadi area has also not been supported by survey report. His claim for land in the extended abadi area has not been supported by the revenue record or the Naksha Muntzamin in both of which only the petitioner's father's name figures. As regards the claim of 72.5 sq. yards in the extended

abadi, the only document on which the petitioner relies, is the site plan prepared by the Architect which was accepted by the earlier Nodal Officer by his order No. 82/2000. However the order dated 18.5.2005 by this Court does not recognize such site plan as being one of the documents for deciding entitlement. 58

52.8. The petitioner has based his claim on the fact that his name figures in the award and he has been awarded compensation for structures. While this may be true, that by itself does not entitle the petitioner to an alternative plot. The award only lists the petitioner as being compensated for structures. The only contingency where a person would also be entitled to an alternative land is in terms of order dated 18.5.2005 of this Court. That criterion reads as under:

> "After hearing the counsel for applicants/objectors, respondent and Amicus Curiae the consensus which emerged for this class of cases was that legal heirs/applicants would be eligible for allotment of individual alternate plots upon the following conditions being satisfied:-
>
> (i) Name of the legal heirs appear separately in the survey report and Naksha Munta Zamin in respect of distinct holdings;
>
> (ii) Legal heirs who have raised separate structures in separate holdings for which they are given separate compensation in the award."

Even in the above criteria, the names of the legal heirs have to appear separately in the survey report. Admittedly, the petitioner's name does not.

52.9. There is no error in the decision arrived at by the Nodal Officer in rejecting the claim of the petitioner.

52.10. Accordingly, there is no merit in this writ petition and it is dismissed as such. The application is dismissed.

W.P.(C) 415/2007 and 736/2007 *(Suraj Mal v. DDA)*

53.1 The petition challenges an order dated 10.11.2006 passed by the Nodal Officer dismissing the claim for a separate plot being in his name. The petitioner claims to be the owner of the following pieces of land: (i) measuring 64 sq. yards in Khasra No. 1198 in the old abadi area; (ii) measuring 48 sq. yards (being 1/5th share of 240 sq. yards recorded in the father's name) in Khasra No. 1243 in the old abadi area; (iii) 146 sq. yards out of a total 1462 sq. yards in Khasra No. 1246/5/2 in the extended abadi area. It is stated that in the list of persons eligible for allotment of alternative plots submitted to this Court on 14.1.2004, the petitioner was shown as the owner in respect of plot measuring 64 sq. yards in Khasra No. 1198, at serial no. 102. However, the other two plots were shown in the name of petitioner's father.

53.2 Pursuant to the order dated 16.5.2005 passed by this Court, the petitioner filed a claim before the Nodal Officer on 13.5.2005. The petitioner claimed that his name should be included in the Naksha Mutzamin in respect of other two plots and entitlement should be determined by clubbing those two plots with the plot measuring 64 sq. yards in Khasra No. 1198.

53.3 The counsel for the parties were heard. The records perused. The petitioner's name figures in the award towards his claim for structures. However in the Survey Report in respect of Khasra No. 1243 in the old abadi area and in the naksha mutzamin as regards Khasra No. 1246/5/2 in the extended abadi area, it is only petitioner's father Sh. Lakhiram whose name figures. The petitioner claims that during the lifetime of his father, his name could not be included in the revenue record and that after death of his father on 20.10.2000, the land revenue record in the extended area was amended and the land was mutated in the petitioner's name on 18.12.2000.

60

53.4 The submission of Mr. Poddar, learned counsel for respondent was that since no document showing partition was submitted, the share of the father was clubbed together in respect of the land in the extended abadi area. The petitioner's name does not figure in the naksha mutzamin in respect of the extended abadi area and therefore, the claim for a separate allotment cannot be entertained.

53.5 The question whether the petitioner has a separate holding in his name in respect of the land in the old abadi as well as plots in the extended abadi, is to be considered.

53.6 As regards the land holding in Khasra No. 1198 in the old abadi area the petitioner's name figures in respect of 64 sq. yds in the Survey Report. As regards the extended abadi area, while it may be correct that the naksha mutzamin only shows the petitioner's father's name, the impugned order of the Nodal Officer does not deal with the petitioner's case separately. In the counter affidavit filed in this writ petiton the position is no better. No para wise reply has been filed. There is, for

instance, no specific denial of the claim of the petitioner that a partition had taken place in 1970 (para 9) and that upon the father's death on 20.10.2000, the mutation was carried out in the revenue record in the name of the petitioner and other legal heirs. These facts have therefore to be taken as correct. Also, the index prepared by the Nodal Officer shows that the petitioner's name does figure in respect of the old abadi Khasra No.1198. If indeed the mutation had already been carried out, then the petitioner's share in the extended abadi land should have been separately shown.

61

53.7. The Court upon a consideration of the above facts and circumstances, is of the considered view that Guideline 3 would apply in the instant case. The petitioner is, for the purpose of calculating the size of a separate plot in his favour, entitled to include his share in the father's property along with his separate holding in the old abadi. The impugned order of the Nodal Officer is to this extent set aside and a direction is issued to allot a separate alternate plot to the petitioner on the basis of the Guideline 3 in the order dated 18.5.2005. This exercise to be performed within two weeks from today.

53.8. With the above directions, the writ petition is allowed. The application is disposed of.

W.P.(C)No. 782/2007 and 1478/2007 *(Nirmala Devi v. K.K. Dahiya-Nodal Officer)*

54.1 This petition is directed against the order dated 16.11.2006 passed by the Nodal Officer.

54.2 The case of the petitioner is that she is the owner and in possession of house and plot measuring 498 sq. yards situated in

khasra no. 1243 of the old abadi. Her name figures in the survey report and in the naksha mutzamin. Her name is also recorded in the index register at serial No. 302-D in the list dated 13.1.2004 prepared by the Nodal Officer and submitted to the High Court. Her name also figures in the award at serial No. 92 in relation to the compensation for land and house. Earlier the Nodal Officer rejected the claim of the petitioner by order dated 10.12.2004 and her name also was omitted from the list of 308 persons submitted to this Court. However, the petitioner was permitted to file fresh claims before the Nodal Officer by the order dated 18.5.2005 passed by this Court. The petitioner filed her application before the Nodal Officer on 30.5.2005. The petitioner claims that there was no justification for clubbing the share of the petitioner with that of the husband late Shri Mehtab Singh and allotting only one plot in lieu thereof. It is claimed that the separate share of the petitioner entitled her to a separate plot. The petitioner sites instance of Smt. Giano Devi in whose case also there was a separate holding in her name and yet the share was not clubbed with that of the husband. The petitioner also cites instances where separate plots have been allotted to members of one family.

62

54.3 The Nodal Officer has in the impugned order rejected the claim of the petitioner on the following reasoning:-

> "In normal circumstances; in a simple and plain exercise, plots could have been allotted in the names of all persons whose names appeared in the survey but in the case of village Nangal Dewat it was found that instead of names of head of family appearing in the list, the names of sons, brothers etc were also shown in the survey. This could have resulted in allotment of several plots in one family. It was imperative to consider some criteria for equitable allotment of plots. In case plots are simply allotted in the names of persons as existed in

the survey, some of the families would have cornered a number of plots merely on the basis of the fact that the names of different family members appeared in the survey. In detailed exercise the Nodal Officer clubbed the landholding of a family and the names of the persons in a family appearing at different places in the Lal Dora land were not considered for allotment of individual plots. In the cases where the names of father, sons and brothers etc. were recommended to allot one plot in the name of head of the family/in joint names as per the entitlement."

63

54.4 The Nodal Officer did not deny that the petitioner's name figures in the survey report. However, he decided to devise a criterion whereby the land holding of the entire family in the old abadi would be clubbed with the other holding in the extended abadi. Ultimately, the Nodal Officer concluded as under:

"The predecessor Nodal Officer also examined the case of applicant in detail and passed a detailed speaking order No. 70/2004. The Nodal Officer came to the conclusion that Mehtab Singh and Smt. Nirmala Devi are husband and wife and she is not entitled for a separate plot. The claim of the applicant was rejected vide said order dated 10/12/2004. The name of Smt. Nirmala Devi is shown in the survey of 1972 but her share has been clubbed with the land of her husband Sh. Mehtab Singh and a plot measuring 650 sq. mtr. has been allotted in name of Shri Mehtab Singh s/o Shri Ram Kala."

54.5 In coming to the above conclusion, the Nodal Officer observed that:-

"However, in view of the fact that residential land of village Nangal Devat was acquired, the government considered allotment of plots in addition to the normal

benefits under LA Act. Therefore, the demand for individual plots in the name of each family member cannot be made as a matter of right."

64

54.6 Mr. Jayant Bhushan, learned senior counsel appearing for the petitioner submits that the guidelines approved by this Court and appended to the order dated 18.5.2005 should have been strictly followed by the Nodal Officer and it was permissible for him to deviate from those guidelines.

54.7 In reply, Mr.Sanjay Poddar, learned counsel for the Nodal officer submits that some criteria had to be devised for dealing the situation where the members of one family get their separate names recorded in the revenue record or in the survey record only with a view to getting alternative land despite the fact that they are all living together. He further points out that the petitioner's husband late Shri Mehtab Singh had already expired and the petitioner would get a share in any event.

54.8 It is an admitted that the petitioner's name figures in the survey report as well as in naksha mutzamin, in that event it satisfies the first guideline appended to the order dated 18.5.2005 which reads as under:-

"1. Any person, whose name finds mention either in the Survey Report (which relates to the old Abadi), or the Jamabandi as on 28.4.1972 and the Naksha Muntzamin, would be eligible for allotment of an alternative plot."

54.9 Guideline 2 also applies in the instant case which reads as under:-

"2. Persons whose names appear at more than one place either in old/extended abadi in the individual capacity or as legal heir of any other person and either

in the Jamabandi or the survey report, his total holding of land shall be considered for determining size of the plot"

54.10 Guideline (2) actually acknowledges the situation where members of one family have separate holdings. If the intention was that such holding should be clubbed together, two persons belonging to the same family, then the guideline should have expressly said so. However, it does not.

54.11 It was not open to the Nodal Officer to devise a criterion for determining eligibility of the persons for allotment of separate plot. That exercise had already been performed by the Court. It was expected that the Nodal Officer will simply follow the guidelines and determine eligibility.

54.12 Para 43 of this judgment, discusses this aspect in detail and therefore the reasons are not repeated here. Accordingly, it is held that the impugned decision dated 16.11.2006 of the Nodal Officer deserves to be set aside. A direction is issued to the Nodal Officer to recalculate the entitlement of the petitioner in the light of this judgment and allot her a separate plot accordingly. This exercise should be done within two weeks from today.

54.13 The writ petition is accordingly allowed with no orders as to costs. The application is disposed of.

W.P.(C)21108-09/2005 and 13858/2005 *(Geetawati v. Airports Authority of India)*

55.1 The prayer in this writ petition by the petitioner No.1 and her son

Shri Ravi Sherawat, Petitioner No.2 is that the 1/4th share of these petitioners in the allotment of the alternate plot at Rangpuri in the name of the father-in-law of Petitioner No.1 Shri Lal Chand (Respondent No.3) should be reflected in the ownership documents pertaining to the said plot. This petition is different from the other petitions in this batch which challenge the denial of allotment of alternate land.

66

55.2 As far as this petition is concerned, the facts are admitted in the affidavit dated 19.4.2006 filed by Respondent No.3 Shri Lal Singh. He admits that by a registered relinquishment deed dated 5.4.2004 he relinquished ¼ share in his holding in village Nangal Dewat in favour of the petitioners. The said document was produced before the Nodal Officer Shri S.S. Kanawat who passed an order on 10.12.2004 holding that the petitioners would be entitled to 1/4th share in the plot to be allotted in Rangpuri. Shri Lal Singh was allotted plot No.3, Block B measuring 350 sq. mtrs in Rangpuri. Shri Lal Singh has expressly stated in his affidavit that he has "no objection in case the 1/4th share of the said plot is put in the names of the petitioners."

55.3 During the pendency of this petition, Shri Lal Singh expired. The amended memo of parties showing his legal representatives as respondents has been filed. In view of the order already made by the Nodal Officer on 10.12.2004, there should be no difficulty in the DDA incorporating the 1/4th share of the petitioners in respect of plot No.3, Block B measuring 350 sq. m in village Rangpuri, in the allotment letter issued in respect thereof. It is directed accordingly. The DDA will act on the affidavit filed by Shri Lal Singh in these proceedings, the order dated 10.12.2004 passed by the Nodal Officer (Annexure P1), the

relinquishment deed (which is at pages 19 to 23 of the paper book) and make the necessary changes and reissue the allotment letter showing the 1/4th share of the petitioners in respect of plot No.3, Block B measuring 350 sq. m in village Rangpuri, within a period of two weeks from today.

55.4 The writ petition is disposed of with these directions. The application stands disposed of.

W.P.(C) 308/2007 and CM No. 518/2007 *(Suresh Chand Sharma v. Land Acquisition Collector)*

56.1 The prayer in this writ petition is for a direction to quash the orders dated 10.12.2004 passed by Shri S.S. Kanawat, the then Nodal Officer and the order dated 20.11.2006 passed by subsequent Nodal Officer in respect of the land in Khasra No. 1254/2 in the extended abadi and Khasra No. 1243 in the old abadi standing in the name of Shri Nandu @ Nandlal, the great grand uncle of the petitioners.

56.2 The request made to the Nodal Officer by the petitioners here was that since a civil suit had been filed in respect of the shares of the different parties in relation to the aforementioned land, the allotment of alternate plots in Rangpuri should be kept in abeyance till such time the civil court decides the said issue. The Nodal Officer recorded the submissions and decided it in the impugned order in following manner:

> "During the hearing, it was informed that a civil suit has been filed in the court of Sr. Civil Judge, Delhi and a Civil Suit No. 172 of 2005 is pending in the court on the same matter. In the instant case the question of legal heir and succession is to be decided

for which the revenue court and the Civil Court are the competent authorities.

68

In the present case, the applicants have already preferred to file a suit in the Civil Court and an application was filed before the undersigned also. I am of the opinion that the applicants cannot seek the relief concurrently from the Civil Court as well as from the Nodal Officer. In the circumstances above, it would be appropriate that the issue in question is decided by the Civil Court and any order of nodal officer will not be desirable in the matter which is pending before the Civil Court."

56.3 Mr. V.K. Shali learned counsel for the petitioners submits that the Nodal Officer ought to have kept the issue of allotment of the alternate plot in respect of the land held by Shri Nandu in abeyance in view of the directions already issued by this Court in respect of such matters in its order dated 18.5.2005.

56.4 The submission made by the petitioners merits acceptance. This Court has already held in its order dated 18.5.2005 that "The limited jurisdiction intended to be conferred on the Nodal Officer by an order passed in writ jurisdiction cannot be extended to determination of the entitlement and title to the land in question based on the law of succession. For all such cases or similar cases, DDA and Airport Authority of India would keep in abeyance the claim for the allotment of plot, pending determination of entitlement/title by the Competent Court." The Nodal Officer ought to have followed this direction and

kept the allotment of the alternate plot in respect of the land in question, in abeyance.

56.5 Accordingly, this writ petition is disposed of with the direction that the allotment of alternative land in respect of the land in Khasra No.1254/2 in the extended abadi and 1243 in the old abadi will be kept in abeyance and be considered subject to and after the final disposal of the Civil Suit No. 172 of 2005 pending in the court of the Senior Civil Judge, Delhi.

W.P.(C) 301/2007 and CM No. 502/2007 *(Sarup Singh v. Land Acquisition Collector)*

57.1 The challenge in this writ petition is to the order dated 10.11.2006 passed by the Nodal Officer rejecting the claim of the petitioners for allotment of separate alternate plots of land in their individual names.

57.2 The facts in brief are that the three petitioners Shri Sarup Singh, Shri Raj Singh and Shri Nafe Singh are sons of late Shri Chhajju Ram and residents of village Nangal Devat. It is stated that as per the Revenue Records, Shri Chhajju Ram was the owner and was in possession of land measuring one bigha and four biswas in Khasra No. 1245/1, half share of 353 sq. yds in Khasra No. 1199, both in the extended abadi and half share in abuilt house of 188 sq. yds in Khasra No. 1243. Shri Sarup Singh had an independent share of 153 sq. yds in Khasra No. 1198 in the old abadi and Shri Raj Singh 174 sq. yds in Khasra No. 1198 in the old abadi. Shri Nafe Singh had 200 sq. yds in Khasra No. 1198 in the old abadi. Their names figure in the Survey Report and the Naksha Muntazamin. Shri Chhajju Ram died in 1999

and his sons today are 80 yrs 72 yrs and 70 yrs respectively.

70

57.3 It is claimed that instead of following the guidelines and calculating the entitlement of the plot size of alternate land for each of the sons by adding to their independent holding, their share in their father's holding, the Nodal Officer has simply rejected their claim by passing a common order and not discussing the facts of the case.

57.4 Mr. Shali, learned counsel for the petitioners submits that the criteria spelt out in the guidelines stands fulfilled in respect of each of the petitioners. Their individual shares in the father's property have to be added to their independent holding and each of them has to be allotted an alternative plot on that basis. Mr. Sanjay Poddar, learned counsel for the Nodal Officer, has submitted a chart confirming the above facts. He however, states that Nodal Officer devised the criterion of clubbing all the holdings of the individual family members and allotting them one plot.

57.5 For the reasons already explained earlier in this judgment, the approach of the Nodal Officer in the instant case was erroneous. Once the names of the petitioners figure in the Survey Report and were shown to have independent holdings, then their share in the father's property had to be added to their independent holdings in terms of guidelines 1 and 2 appended to the order dated 18.5.2005 of this Court.

57.6 Accordingly, the writ petition is allowed. The impugned order dated 10.11.2006 passed by the Nodal Officer in so far as it concerns the petitioners here is set aside. Each of the petitioners will be allotted an alternative plot in village Rangpuri after calculating their

entitlement in the manner indicated in this order. This exercise should be completed within two weeks from today.

57.7 With these directions the writ petition and applications are disposed of.

W.P.(C) 302/2007 and CM No. 504 & 506/2007 *(Ranbir Singh v. Land Acquisition Collector)*

58.1 The challenge in this writ petition is to the order dated 10.11.2006 passed by the Nodal Officer rejecting the claim of the petitioner for allotment of separate alternate plot of land in his individual name.

58.2 The facts in brief are that the petitioner Ranbir Singh is one for the four sons of late Shri Sube Singh who held land measuring 108 sq. yds in Khasra No. 1243, 1/4th share of 700 sq. yds in Khasra No. 1242 and 655 sq. yds in Khasra No. 1257/2 in the extended abadi. The petitioner Shri Ranbir Singh had an independent share of 96 sq. yds in Khasra No. 1243 in the old abadi. His name figures in the Survey Report as well as in the Naksha Muntazamin. It is not denied that on the death of Shri Sube Singh, the petitioner here is entitled to 1/4th share of his father's property.

58.3 It is claimed that instead of following the guidelines and calculating the entitlement of the size of the alternate plot of land to be allotted to the petitioner by adding to his independent holding, his share in his father's holding, the Nodal Officer has simply rejected his claim by passing a common order and not discussing the facts of the case.

58.4 Mr. Shali, learned counsel for the petitioner submits that the criteria spelt out in the guidelines stands fulfilled in respect of the petitioner. His share in the father's property has to be added to his independent holding and he has to be allotted an alternative plot on that basis. Mr. Sanjay Poddar, learned counsel for the Nodal Officer, has submitted a chart confirming the above facts. He however, states that Nodal Officer devised the criterion of clubbing all the holdings of the individual family members of late Shri Sube Singh and allotting them one plot.

58.5 For the reasons already explained earlier in this judgment, the approach of the Nodal Officer in the instant case was erroneous. Once the names of the petitioner figured in the Survey Report and he was shown to have an independent holding, then his share in the father's property had to be added to his independent holding in terms of guidelines 1 and 2 appended to the order dated 18.5.2005 of this Court.

58.6 Accordingly, the writ petition is allowed. The impugned order dated 10.11.2006 passed by the Nodal Officer in so far as it concerns the petitioner here is set aside. The petitioner will be allotted an alternative plot in village Rangpuri after calculating his entitlement in the manner indicated in this order. This exercise should be completed within two weeks from today.

58.7 With these directions the writ petition and applications are disposed of.

73

59.1 The challenge in this writ petition is to the order dated 10.11.2006 passed by the Nodal Officer rejecting the claim of the petitioners for allotment of separate alternate plots of land in their individual names.

59.2 The facts in brief are that the two petitioners Shri Jeet Singh and Shri Satbir Singh are sons of late Shri Surta and residents of village Nangal Devat. It is stated that as per the records, Shri Surta was the owner and was in possession of land measuring 1015.17 sq yds in Khasra No. 1259/1 and 1243. Shri Jeet Singh was shown to have an independent 1/6th share of 75.5 sq. yds in Khasra No. 1243. Shri Jeet Singh's name figures in the Survey Report and the Naksha Muntazamin. As far as Shri Satbir Singh is concerned, it is stated that he had a dwelling unit of 66 sq. yds in the same Khasra No. and had an independent electric connection.

59.3 It is claimed that instead of following the guidelines and calculating the entitlement of the plot size of alternate land for each of the sons by adding to their independent holding, their share in their father's holding, the Nodal Officer has simply rejected their claim by passing a common order and not discussing the facts of the case.

59.4 Mr. Shali, learned counsel for the petitioners submits that the criteria spelt out in the guidelines stands fulfilled in respect of each of the petitioners. Their individual shares in the father's property have to be added to their independent holding and each of them has to be allotted an alternative plot on that basis. Mr. Sanjay Poddar, learned

counsel for the Nodal Officer, has submitted a chart which shows that only the name of Shri Jeet Singh appears in the Survey Report and the Naksha Muntazamin. He however, states that Nodal Officer devised the criterion of clubbing all the holdings of the individual family members and allotting them one plot.

59.5 For the reasons already explained earlier in this judgment, the approach of the Nodal Officer in the instant case, as far as Shri Jeet Singh is concerned, was erroneous. Once the name of Shri Jeet Singh figured in the Survey Report and he was shown to have independent holding, then his share in the father's property had to be added to his independent holding in terms of guidelines 1 and 2 appended to the order dated 18.5.2005 of this Court. The claim of Shri Satbir Singh was, however, rightly rejected.

59.6 Accordingly, the writ petition is partly allowed as far as Shri Jeet Singh is concerned. The impugned order dated 10.11.2006 passed by the Nodal Officer in so far as it concerns Shri Jeet Singh is set aside. Shri Jeet Singh will be allotted a separate alternative plot in village Rangpuri after calculating his entitlement in the manner indicated in this order. This exercise should be completed within two weeks from today.

59.7 With these directions the writ petition and applications are disposed of.

W.P.(C) 1100/2007 and CM No. 1936/2007 *(Daya Chand v. Land Acquisition Collector)*

60.1 The challenge in this writ petition is to the order dated

16.11.2006 passed by the Nodal Officer rejecting the claim of the petitioners for allotment of separate alternate plots of land in their individual names.

60.2 The facts in brief are that the two petitioners Shri Daya Chand and Shri Chhotu Ram are sons of late Shri Kishan Chand and residents of village Nangal Devat. It is stated that as per the records, Shri Kishan Chand was the owner and was in possession of land measuring 582.44 sq. yds in Khasra No. 1259/1 and 44 sq. yds in Khasra No. 1243. Shri Daya Chand was shown to have an independent holding of 59 sq. yds in Khasra No. 1243. Shri Daya Chand's name figures in the Survey Report and the Naksha Muntazamin. As far as Shri Chhotu is concerned, his name is shown in the award at serial No. 66 as having received compensation for structure.

60.3 It is claimed that instead of following the guidelines and calculating the entitlement of the plot size of alternate land for each of the sons by adding to their independent holding, their share in their father's holding, the Nodal Officer has simply rejected their claim by clubbing all the holdings.

60.4 Mr. Shali, learned counsel for the petitioners submits that the criteria spelt out in the guidelines stands fulfilled in respect of each of the petitioners. Their individual shares in the father's property have to be added to their independent holding and each of them has to be allotted an alternative plot on that basis. Mr. Sanjay Poddar, learned counsel for the Nodal Officer, has submitted a chart which shows that only the name of Shri Daya Chand appears in the Survey Report and the Naksha Muntazamin. He however, states that Nodal Officer

devised the criterion of clubbing all the holdings of the individual family members and allotting them one plot.

60.5 For the reasons already explained earlier in this judgment, the approach of the Nodal Officer in the instant case, as far as Shri Daya Chand is concerned, was erroneous. Once the name of Shri Daya Chand figured in the Survey Report and he was shown to have independent holding, then his share in the father's property had to be added to his independent holding in terms of guidelines 1 and 2 appended to the order dated 18.5.2005 of this Court. The claim of Shri Chhotu Ram was, however, rightly rejected.

60.6 Accordingly, the writ petition is partly allowed as far as Shri Daya Chand is concerned. The impugned order dated 16.11.2006 passed by the Nodal Officer in so far as it concerns Shri Daya Chand is set aside. Shri Daya Chand will be allotted a separate alternative plot in village Rangpuri after calculating his entitlement in the manner indicated in this order. This exercise should be completed within two weeks from today.

60.7 With these directions the writ petition and applications are disposed of.

W.P.(C) 1123/2007 and CM No. 1977/2007 *(Ballu Singh v. Land Acquisition Collector)*

61.1 The challenge in this writ petition is to the order dated 10.11.2006 passed by the Nodal Officer rejecting the claim of the petitioners for allotment of separate alternate plots of land in their individual names.

61.2 The facts in brief are that the three petitioners Shri Ballu Singh son of Shri Dalip Singh, Shri Satbir Singh and Shri Karamvir Singh both sons of late Shri Shanti Swarup are residents of village Nangal Devat. It is stated that as per the records, Shri Dalip Singh was the owner and was in possession of land measuring 128 sq. yds in Khasra No. 1243, 403 sq. yds in Khasra No. 1200 and 938 sq. yds in Khasra No. 1198. Shri Shanti Swarup had an independent share of 90 sq. yds in Khasra No. 1243. Their names figure in the Survey Report and the Naksha Muntazamin. As far as Shri Ballu Singh is concerned, he was shown in the Award at serial No. 325 as having received Rs.28,730/- for structures.

61.3 It is claimed that instead of following the guidelines and calculating the entitlement of the plot size of alternate land for each of the sons by adding to their independent holding, their share in their father's holding, the Nodal Officer has simply rejected their claim by passing a common order and not discussing the facts of the case.

61.4 Mr. Shali, learned counsel for the petitioners submits that the criteria spelt out in the guidelines stands fulfilled in respect of the petitioners. He states that Shri Shanti Swarup's share in Shri Dalip Singh's property had to be added to his independent share and that would have entitled him to a separate plot. Thus while Ballu Singh would get an independent plot, Shri Satbir Singh and Shri Karamvir Singh, the sons of Shri Shanti Swarup Singh would get one plot jointly. Mr. Sanjay Poddar, learned counsel for the Nodal Officer, has submitted a chart confirming the above facts. He however, states that Nodal Officer devised the criterion of clubbing all the holdings of the

individual family members and allotting them one plot.

78

61.5 For the reasons already explained earlier in this judgment, the approach of the Nodal Officer in the instant case was erroneous. Once the name of Shri Shanti Swarup figured in the Survey Report and he was shown to have an independent holding, then his share in his father Shri Dalip Singh's property had to be added to his independent holding in terms of guidelines 1 and 2 appended to the order dated 18.5.2005 of this Court. Thereafter, the entitlement of Shri Ballu Singh to one plot in respect of the remaining share of Shri Dalip Singh's property had to be calculated. The petitioners 2 and 3 Shri Satbir Singh and Shri Karambir Singh would take jointly one alternative plot in respect of the entitlement of their father Shri Shanti Swarup.

61.6 Accordingly, the writ petition is allowed. The impugned order dated 10.11.2006 passed by the Nodal Officer in so far as it concerns the petitioners here is set aside. The petitioners will be allotted alternative plots in village Rangpuri after calculating their entitlement in the manner indicated in this order. This exercise should be completed within two weeks from today.

61.7 With these directions the writ petition and applications are disposed of.

W.P.(C) 1699/2007 and CM No. 3122/2007 *(Daya Nand v. Land Acquisition Collector)*

62.1 The challenge in this writ petition is to the order dated 10.11.2006 passed by the Nodal Officer rejecting the claim of the petitioners for allotment of separate alternate plots of land in their

individual names.

63.2 The facts in brief are that the two petitioners Shri Daya Nand and Shri Ram Chander are sons of late Shri Sukh Lal and residents of village Nangal Devat. It is stated that as per the records, Shri Sukh Lal was the owner and was in possession of half share of land measuring 176.5 sq. yds in Khasra No. 1199, half share in land measuring 94 sq. yds in Khasra No. 1243. Shri Daya Nand and Shri Ram Chander were shown having equal shares in land measuring 1055 sq. yds in Khasra No. 1198. Their names figure in the Survey Report and the Naksha Muntazamin.

63.3 It is claimed that instead of following the guidelines and calculating the entitlement of the plot size of alternate land for each of the sons by adding to their independent holding, their share in their father's holding, the Nodal Officer has simply rejected their claim by passing a common order and not discussing the facts of the case.

63.4 Mr. Shali, learned counsel for the petitioners submits that the criteria spelt out in the guidelines stands fulfilled in respect of each of the petitioners. Their individual shares in the father's property have to be added to their independent holding and each of them has to be allotted an alternative plot on that basis. Mr. Sanjay Poddar, learned counsel for the Nodal Officer, has submitted a chart confirming the above facts. He however, states that Nodal Officer devised the criterion of clubbing all the holdings of the individual family members and allotting them one plot.

63.5 For the reasons already explained earlier in this judgment, the

approach of the Nodal Officer in the instant case was erroneous. Once the names of the petitioners figure in the Survey Report and were shown to have independent holdings, then their share in the father's property had to be added to their independent holdings in terms of guidelines 1 and 2 appended to the order dated 18.5.2005 of this Court.

63.6 Accordingly, the writ petition is allowed. The impugned order dated 10.11.2006 passed by the Nodal Officer in so far as it concerns the petitioners here is set aside. Each of the petitioners will be allotted an alternative plot in village Rangpuri after calculating their entitlement in the manner indicated in this order. This exercise should be completed within two weeks from today.

63.7 With these directions the writ petition and applications are disposed of.

WP(C) 307/2007 *(Jaipal Singh vs. Land Acquisition Collector)*

64.1 The challenge in this writ petition is to the order dated 10.11.2006 passed by the Nodal Officer rejecting the claim of the petitioners for allotment of separate alternate plots of land in their individual names.

64.2 The facts in brief are that the Shri Jaipal Singh son of late Shri Lakhi Ram is a resident of village Nangal Devat. It is stated that as per the records, Shri Lakhi Ram was the owner and was in possession of land measuring 240 sq. yds in Khasra No. 1243, and half share of 1462 sq. yds in Khasra No. 1246/5/2. One of the sons of Shri Lakhi Ram, Shri Suraj Mal was shown as having and independent share of 64 sq.yds in Khasra No. 1198. Their names figure in the Survey Report and the

Naksha Muntazamin. As far as Shri Jaipal Singh is concerned, he was shown in the Award at serial No. 308 as having received Rs.31,360/- for the structure.

81

64.3 It is claimed that instead of following the guidelines and calculating the entitlement of the plot size of alternate land for the petitioner by adding to his independent holding, his share in his father's holding, the Nodal Officer has rejected his claim by clubbing all the shares of the members and allotting one plot.

64.4 Mr. Shali, learned counsel for the petitioners submits that the petitioner is shown as having a structure on land to the extent of 48 sq. yds where he was running a general store and a floor mill and, therefore, this extent would constitute his independent holding. Mr. Sanjay Poddar, learned counsel for the Nodal Officer, has submitted a chart which shows that the petitioner's name does not figure in either the Survey Report or the Naksha Muntazamin.

64.5 This Court finds that there is no error in the impugned order of the Nodal Officer as far as the petitioner here is concerned. Unless the petitioner is also shown as having an independent holding by virtue of any of the source documents, his claim for a separate alternative plot cannot be entertained.

64.6 The writ petition is dismissed.

WP(C) No.304/2007 and CM Nos. 6094 and 509/2007 *(Zile Singh vs Land Acquisition Collector)*

65.1 The challenge in this writ petition is to the order dated

10.11.2006 passed by the Nodal Officer rejecting the claim of the petitioners for allotment of separate alternate plots of land in their individual names.

65.2 The facts in brief are that the petitioners Shri Zile Singh and Shri Nafe Singh both sons of late Shri Mehar Singh are residents of village Nangal Devat. It is stated that as per the records, Shri Mehar Singh was the owner and was in possession of land measuring 169 sq. yds and 276 Sq. yds in Khasra No. 1243 and 1814 sq. yds in Khasrs No. 1247/4 in the extended abadi. His name figured in the Survey Report and the Naksha Muntazamin. As far as the petitioners are concerned, it is claimed that in the Survey Report they are shown as having equal half share in respect of 103 sq. yds in Khasra No. 1243. It is accordingly claimed that this independent holding should be adding to their share in their father's property and they should therefore, get two separate plots instead of one plot jointly.

65.3 The Court has carefully examined the relevant entry in the Survey Report where the names of the two petitioners are shown under the column of the owner of the house and it is indicated "Makaan Kabzaan" and then the two petitioners' names are mentioned. It is clear that the petitioners are shown as having equal share only in the structure and not in the land beneath the structure.

65.4 In that view of the matter, it is not possible to find any entitlement for these petitioners in terms of the order dated 18.5.2005 of this Court. In the said order, it was held that in order that a legal heir is entitled for an individual alternate plot, the names should appear "separately in the Survey Report and Naksha Muntazamin in

respect of distinct holdings." The word 'holdings' here is indicative of land and not merely the structures. In that view of the matter, no error can be found in the impugned order of the Nodal Officer.

83

65.5 The writ petition is dismissed. The applications are also dismissed.

WP(C)306/2007 & CM.No.513/2007*(Mahender Singh vs. Land Acquisition Collector)*

66.1 The challenge in this writ petition is to the order dated 16.11.2006 passed by the Nodal Officer rejecting the claim of the petitioners for allotment of separate alternate plots of land in their individual names.

66.2 The facts in brief are that the petitioners Shri Mahender Singh, Shri Anand Pal Singh and Shri Jagat Pal Singh are sons of late Shri Amar Singh Singh are residents of village Nangal Devat. It is claimed that as per the records, Shri Amar Singh had land measuring 133 sq. yds in Khasra No. 1243. He name was recorded in the Award, in the Survey Report and the Naksha Muntazamin. It is claimed that the petitioners would be jointly entitled to the land of Shri Amar Singh as his legal heirs.

66.3 The Nodal Officer rejected the claim on the ground that the earlier Nodal Officer had himself found that pursuant to a joint application filed on 20.9.2003 by Shri Amar Singh along with 33 other shareholders, the land had already been distributed accordingly.

66.4 Mr. Shali, learned counsel for the petitioner stated that Nodal Officer had mechanically rejected the claim of the petitioners by simply

following the earlier order passed by his predecessor and had not actually verified the record to see if such an application had been filed.

66.5 The Court has called for the original records. Indeed, an application signed by Shri Amar Singh along with 33 others was filed with the Nodal Officer on 28.5.2004 asking for sub division of the plots. The impugned order of the Nodal Officer is, therefore, correct. There is no merit in the writ petition.

66.6 The writ petition is dismissed, the application is also dismissed.

WP(C)No.300/2007 and C.M. No.500/2007*(Sat Pal Singh vs. Land Acquisition Collector)*

67.1 The challenge in this writ petition is to the order dated 16.11.2006 passed by the Nodal Officer rejecting the claim of the petitioners for allotment of separate alternate plots of land in their individual names.

67.2 The facts in brief are that the three petitioners Shri Satpal Singh son of late Shri Mukhtiar Singh, Shri Sukhbir Singh son of late Shri Risal Singh and Shri Karan Singh son of late Shri Ran Singh are residents of village Nangal Devat. It is stated that as per the records, on the death of their grand father Shri Neki, his property passed on in equal proportion of 1/3rd share each to his sons, the respective fathers of the petitioners. Thus each of the fathers of the petitioners inherited 1083 sq. yds. In the records, as regards khasra no. 1243 Shri Mukhtiar Singh and Shri Risal Singh were shown as holding 102 sq. yds. and 106 sq. yds. respectively. Shri Karan Singh, Shri Risan Singh and Shri Mukhtiar Singh were shown jointly holding 217 sq. yds. in khasra nos.

1257/1 and 1258/1 and 701 sq. yds. in khasra no.1242.

67.3 The request before the Nodal Officer was that in the first place all the holdings of late Shri Neki should be clubbed and 1/3rd share each should be apportioned among his three sons and thereafter to the grand sons in their proportionate shares. It was claimed that since the grand sons have been showing as holding separate structures, each should get a separate plot in the size of which should be determined after adding the independent holding of the land beneath the structure to their share in the father's property. It is claimed that the size of plots now allotted to each of these petitioners has been calculated on the basis of half share in favour of Shri Karan Singh and 1/3rd share in favour of Shri Risal Singh and Shri Mukhtiar Singh. However, Shri Karan Singh has been allotted 450 sq. mts. whereas the other two have been allotted plots of 550 sq. mts. It is claimed that Shri Karan Singh should also get a 550 sq. m. plot . The second grievance is that land measuring 120 sq. yds. and 104 sq. yds. in khasra No. 1243 had to be added for the total land of Shri Neki and then sub-divided. It is claimed that 104 sq. yds. was wrongly shown as a common gali whereas it was their private lands. Reliance is placed on the entries in the khatuni whereby petitioner No.3 Shri Karan Singh, and the respective fathers of petitioners No. 1 and 2 were shown as having equal share in respect of the lands in the extended abadi. The mutation entries in the khatuni have also been relied upon.

67.4 Mr. Sanjay Poddar, learned counsel for the Nodal Officer has produced the records of the case and the calculation of the respective shares. It appears that as regards the extended abadi land, the mutation entries have been acted on by the Nodal Officer. The

recorded shares as per the survey report and the naksha mumtazin in the old abadi have also been accounted for. The total holding of late Shri Risal Singh is 1045 sq. yds., that of late Shri Mukhtiar Singh 1041 sq. yds. and late Shri Karan Singh 939 sq. yds. Accordingly the size of the alternate plot in Rangpuri in respect of each of the petitioners has been correctly determined. The Court therefore finds no infirmity in the exercise performed by the Nodal Officer in this regard.

86

67.5 As regards the claim that some portion of the land which was shown as a gali should be included in the total holding of late Shri Neki, it requires to be noticed that these entries in the records have been made long time ago and no explanation is forthcoming as to why the petitioners had to wait for so many years to make such a request. Further, it is not as if the petitioners have been deprived of alternate plots. At the highest this can affect the size of the alternate plots. On a considered view of the matter, this Court is not inclined to consider this claim at this late stage when no injustice is being caused as such to any of the petitioners.

67.6 For all of the above reasons, this Court finds no infirmity in the impugned order of the Nodal Officer.

67.7 The writ petition is dismissed and the application is disposed of.

WP(C)No.4001/2007 and C.M. No.7561-62/2007*(Pratap Singh v. Land Acquisition Collector)*

WP(C)No.4113/2007 and C.M. No.7755/2007*(Kuldeep Singh v. Land Acquisition Collector)*

87

68.1 These two writ petitions have been filed just as the arguments in these batch of matters were about to conclude. W.P.(C) 4001/2007 was filed on 22.5.2007 and W.P.(C) 4113/2007 was filed on 24.5.2007. In both these writ petitions the challenge is to the order dated 10.11.2006 passed by the Nodal Officer, which was a common order disposing of several claims, including the claims of the petitioners here. These two petitions can be characterized as petitions by 'fence sitters' who have been waiting and watching for a long time before deciding to file the petitions although petitions of similarly placed persons have been heard by this Court for several months now. In para 26 of this judgment, this Court had already explained why it is not inclined to entertain such petitions.

68.2 In W.P.(C) No.4001/2007, Mr. V.K.Shali learned counsel for the petitioner has strenously contended, with reference to medical certificates placed on record that the first petitioner Shri Pratap Singh had to be hospitalised for heart ailment and that even after his discharge on 28.6.2005, he was undergoing treatment. Medical records of 29.6.2006 have also been placed on record. It is stated that he was the person who was looking after the case and therefore the petitioners could not approach this Court earlier.

68.3 In the other Writ Petition (C) No. 4113/2007 Mr. Kunwar Udai Bhan learned counsel has sought to urge that it would be unfair to deny relief to the petitioners when certain others whose claims have been disposed of by the very same impugned common order are being granted relief by this Court. No attempt has been made to show why these petitioners could not approach the Court earlier.

68.4 This Court does not consider it necessary to repeat the reasons explained in para 26 of this judgment for not entertaining these petitions. These petitioners have been residing in Nangal Devat for many years now. It is a fairly densely populated village in a small area. The notification under Section 4 of the L.A.Act was issued in 1972. The Award was made in 1986. Till August 2001 the petitions challenging the acquisition were pending in court. Thereafter numerous petitions and applications have been filed by the residents of Nangal Devat which have been heard and disposed of by this Court. On several dates time for making claims before the Nodal Officer were extended. Thereafter the present round of litigation, challenging the orders of the Nodal Officer, most of which were made in November 2006, have been heard from December 2006 onwards. In these circumstances, it is impossible to believe that the petitioners were not aware of the pendency of these cases. The Court is not prepared therefore to entertain these petitions, coming as they do, at the very last stage. Throughout the hearing of these petitions also, the Court made it clear that it is not going to entertain further petitions challenging the orders of the Nodal Officer. This approach was considered necessary keeping in view the time bound directions of this Court made earlier.

68.5 These writ petitions are dismissed. The applications are also dismissed.

Conclusion

69. The summary of the conclusions by this Court on the general issues that have arisen for consideration have already been set out in para 45 and are not being repeated here. The concluding

portions of the orders in the individual cases have been indicated separately and are also therefore not repeated here. The Court records its appreciation of the assistance of all the learned counsel for the parties who have cooperated in the disposal of these matters. Mr. K.K.Dahiya, the Nodal Officer, remained in Court with the entire records throughout the proceedings. The Court appreciates his invaluable efforts and assistance in the disposal of these petitions.

Sd/-
S. MURALIDHAR, J.

MAY 30, 2007
raj